



# REQUEST FOR PROPOSALS (RFP)

**SOLICITATION NO. DHMH OPASS- 14-13398**

**Issue Date: April 9, 2013**

**Women, Infants, and Children (WIC) Program Local Agency for  
Targeted Areas in Prince George's County**

## NOTICE

A Prospective Offeror that has received this document from the Department of Health and Mental Hygiene's website or <https://emaryland.buyspeed.com/bsol/>, or that has received this document from a source other than the Procurement Officer, and that wishes to assure receipt of any changes or additional materials related to this RFP, should immediately contact the Procurement Officer and provide the Prospective Offeror's name and mailing address so that addenda to the RFP or other communications can be sent to the Prospective Offeror.

**Minority Business Enterprises Are Encouraged to Respond to this Solicitation**

**STATE OF MARYLAND  
NOTICE TO VENDORS**

In order to help us improve the quality of State solicitations, and to make our procurement process more responsive and business friendly, we ask that you take a few minutes and provide comments and suggestions regarding this solicitation. Please return your comments with your response. If you have chosen not to respond to this Contract, please email or fax this completed form to the attention of the Procurement Officer (see Key Information Sheet below for contact information).

**Title: Women, Infants, and Children (WIC) Program Local Agency for Targeted Areas in  
Prince George's County**

**Solicitation No: DHMH OPASS – 14-13398**

1. If you have chosen not to respond to this solicitation, please indicate the reason(s) below:

- ☐ Other commitments preclude our participation at this time.
- ☐ The subject of the solicitation is not something we ordinarily provide.
- ☐ We are inexperienced in the work/commodities required.
- ☐ Specifications are unclear, too restrictive, etc. (Explain in REMARKS section.)
- ☐ The scope of work is beyond our present capacity.
- ☐ Doing business with the State of Maryland is simply too complicated. (Explain in REMARKS section.)
- ☐ We cannot be competitive. (Explain in REMARKS section.)
- ☐ Time allotted for completion of the Proposal/Proposal is insufficient.
- ☐ Start-up time is insufficient.
- ☐ Bonding/Insurance requirements are restrictive. (Explain in REMARKS section.)
- ☐ Bid/Proposal requirements (other than specifications) are unreasonable or too risky. (Explain in REMARKS section.)
- ☐ MBE or VSBE requirements. (Explain in REMARKS section.)
- ☐ Prior State of Maryland contract experience was unprofitable or otherwise unsatisfactory. (Explain in REMARKS section.)
- ☐ Payment schedule too slow.
- ☐ Other: \_\_\_\_\_

2. If you have submitted a response to this solicitation, but wish to offer suggestions or express concerns, please use the REMARKS section below. (Attach additional pages as needed.).

REMARKS:

---

---

Vendor Name: \_\_\_\_\_ Date: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

Address: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

**STATE OF MARYLAND  
DEPARTMENT OF HEALTH AND MENTAL HYGIENE  
RFP KEY INFORMATION SUMMARY SHEET**

**Request For Proposals:** Women, Infants, and Children (WIC) Program Local Agency for Targeted Areas in Prince George's County

**Solicitation Number:** DHMH OPASS – 14-13398

**RFP Issue Date:** April 9, 2013

**RFP Issuing Office:** Maryland Department of Health and Mental Hygiene WIC Program

**Procurement Officer:** Sharon Gambrill  
201 W. Preston St., Room 416A  
Baltimore, MD 21201  
Phone: (410) 767-5816 Fax: (410) 333-5958  
e-mail: [sharon.gambrill@maryland.gov](mailto:sharon.gambrill@maryland.gov)

**Contract Officer:** Allegra Daye  
201 West Preston Street  
Baltimore, MD 21201  
Phone Number: (410) 767-5741  
Fax Number: (410) 333-5958  
E-mail: [allegra.daye@maryland.gov](mailto:allegra.daye@maryland.gov)

**Contract Monitor:** Gene S. Nadolny  
Maryland WIC Program  
201 W. Preston Street, Room 102  
Baltimore, MD 21201  
Telephone: 410-767-5239 fax: 410-333-5683  
e-mail: [gene.nadolny@maryland.gov](mailto:gene.nadolny@maryland.gov)

**Proposals are to be sent to:** Maryland Department of Health and Mental Hygiene  
Office of Procurement & Support Services  
201 W. Preston Street, Room 416A  
Baltimore, MD 21201  
Attention: Sharon Gambrill

**Pre-Proposal Conference:** April 19, 2013 at 10:00 a.m. Local Time  
Maryland Department of Health & Mental Hygiene  
201 W. Preston Street, Lobby Room L-4  
Baltimore, MD 21201

**Closing Date and Time:** May 3, 2013 by 2:00 p.m. Local Time

**MBE Subcontracting Goal:** 0%

**VSBE Subcontracting Goal:** 0%

## **Table of Contents**

<b>SECTION 1 - GENERAL INFORMATION.....</b>	<b>7</b>
1.1 Summary Statement .....	7
1.2 Abbreviations and Definitions .....	7
1.3 Contract Type.....	9
1.4 Contract Duration.....	9
1.5 Procurement Officer.....	9
1.6 Contract Monitor.....	10
1.7 Pre-Proposal Conference .....	10
1.8 eMarylandMarketplace .....	11
1.9 Questions.....	11
1.10 Procurement Method.....	11
1.11 Proposals Due (Closing) Date and Time .....	11
1.12 Multiple or Alternate Proposals .....	12
1.13 Economy of Preparation .....	12
1.14 Public Information Act Notice.....	12
1.15 Award Basis .....	12
1.16 Oral Presentation.....	12
1.17 Duration of Proposal .....	12
1.18 Revisions to the RFP.....	13
1.19 Cancellations.....	13
1.20 Incurred Expenses.....	13
1.21 Protest/Disputes .....	13
1.22 Offeror Responsibilities .....	13
1.23 Substitution of Personnel .....	14
1.24 Mandatory Contractual Terms .....	16
1.25 Proposal/Proposal Affidavit.....	16
1.26 Contract Affidavit .....	16
1.27 Compliance with Laws/Arrearages.....	17
1.28 Verification of Registration and Tax Payment .....	17
1.29 False Statements.....	17
1.30 Payments by Electronic Funds Transfer .....	17
1.31 Prompt Payment Policy.....	17
1.32 Electronic Procurements Authorized .....	18
1.33 Minority Business Enterprise Goals .....	19
1.34 Living Wage Requirements .....	19
1.35 Federal Funding Acknowledgement .....	20
1.36 Conflict of Interest Affidavit and Disclosure.....	20
1.37 Non-Disclosure Agreement .....	20
1.38 HIPAA - Business Associate Agreement .....	20
1.39 Nonvisual Access.....	21
1.40 Mercury and Products That Contain Mercury .....	21
1.41 Veteran-Owned Small Business Enterprise Goals.....	21
1.43 Investment Activities in Iran.....	21
1.44 Location of the Performance of Services Disclosure.....	21

1.45	Department of Human Resources (DHR) Hiring Agreement.....	21
<b>SECTION 2 – MINIMUM QUALIFICATIONS.....</b>		<b>22</b>
2.0	Offeror Minimum Qualifications.....	22
<b>SECTION 3 – SCOPE OF WORK .....</b>		<b>23</b>
3.1	Background and Purpose .....	23
3.2	Scope of Work - Requirements.....	23
3.3	Security Requirements .....	29
3.4	Insurance Requirements .....	30
3.5	Problem Escalation Procedure .....	31
3.6	Invoicing .....	31
3.7	MBE Reports .....	32
3.8	VSBE Reports .....	32
<b>SECTION 4 – PROPOSAL FORMAT .....</b>		<b>34</b>
4.1	One Part Submission.....	34
4.2	Proposals .....	34
4.3	Delivery.....	34
4.4	Technical Proposal.....	35
4.5	Financial Proposal.....	41
<b>SECTION 5 – EVALUATION COMMITTEE, EVALUATION CRITERIA, AND SELECTION PROCEDURE .....</b>		<b>42</b>
5.1	Evaluation Committee .....	42
5.2	Technical Proposal Evaluation Criteria .....	42
5.3	Financial Criteria .....	43
5.4	Reciprocal Preference .....	43
5.5	Selection Procedures.....	44
5.6	Documents required upon Notice of Recommendation for Contract Award .....	44
<b>RFP ATTACHMENTS .....</b>		<b>46</b>
ATTACHMENT A – CONTRACT.....		48
ATTACHMENT B – BID/PROPOSAL AFFIDAVIT .....		61
ATTACHMENT C – CONTRACT AFFIDAVIT.....		66
ATTACHMENT D – MINORITY BUSINESS ENTERPRISE FORMS .....		69
ATTACHMENT E – PRE-PROPOSAL CONFERENCE RESPONSE FORM.....		70
ATTACHMENT F – FINANCIAL PROPOSAL INSTRUCTIONS .....		71
ATTACHMENT G – LIVING WAGE REQUIREMENTS FOR SERVICE CONTRACTS ..		72
ATTACHMENT H - FEDERAL FUNDS ATTACHMENT .....		76
ATTACHMENT I – CONFLICT OF INTEREST AFFIDAVIT AND DISCLOSURE.....		83
ATTACHMENT J – NON-DISCLOSURE AGREEMENT .....		84
ATTACHMENT K – HIPAA BUSINESS ASSOCIATE AGREEMENT .....		88
ATTACHMENT L – MERCURY AFFIDAVIT.....		95
ATTACHMENT M – VETERAN-OWNED SMALL BUSINESS ENTERPRISE .....		96
ATTACHMENT N – CERTIFICATION REGARDING INVESTMENTS IN IRAN.....		97

ATTACHMENT O – LOCATION OF THE PERFORMANCE OF SERVICES	
DISCLOSURE.....	98
ATTACHMENT P – DHR HIRING AGREEMENT.....	99
ATTACHMENT Q - WIC PROGRAM REGULATIONS .....	102
ATTACHMENT R - LOCAL AGENCY PROCEDURE MANUAL.....	103
ATTACHMENT S - PRINCE GEORGES COUNTY CLINICS.....	104
ATTACHMENT T - PRINCE GEORGE’S COUNTY ZIP CODES .....	105
ATTACHMENT U - WIC CLINIC PROTOTYPES .....	106
ATTACHMENT U (1) - (Con’t) WIC CLINIC PROTOTYPES.....	107
ATTACHMENT U (2) - (Con’t) WIC CLINIC PROTOTYPES .....	108
ATTACHMENT V - CONDITIONS OF AWARD .....	109
ATTACHMENT W - LOCAL AGENCY BUDGET PACKAGE INSTRUCTIONS.....	113

## **SECTION 1 - GENERAL INFORMATION**

### **1.1 Summary Statement**

- 1.1.1 The Maryland Department of Health and Mental Hygiene Women, Infants, and Children (WIC) Program, is issuing this Request for Proposals (RFP) to administer a WIC Program in targeted areas of Prince George's County. The services include enrolling applicants in the WIC Program, providing supplemental foods through the WIC food instrument system, making nutrition education services available, and providing referrals to health care and other social service agencies as needed. These services and benefits will be provided to pregnant, postpartum, and breastfeeding women, infants, and children under five years of age who are determined eligible.
- 1.1.2 It is the State's intention to obtain services, as specified in this RFP, from a Contract between the successful Offeror and the State.
- 1.1.3 The Department intends to make a single award as a result of this RFP to the Offeror whose proposal is deemed to be the most advantageous to the State.
- 1.1.4 Offerors, either directly or through their subcontractor(s), must be able to provide all services and meet all of the requirements requested in this solicitation and the successful Offeror (the Contractor) shall remain responsible for Contract performance regardless of subcontractor participation in the work.

### **1.2 Abbreviations and Definitions**

For purposes of this RFP, the following abbreviations or terms have the meanings indicated below:

- a. **Business Day** – The official Working Days of the week to include Monday through Friday. Official Working Days excludes State Holidays (see definition of "Normal State Business Hours" below).
- b. **COMAR** – Code of Maryland Regulations available on-line at [www.dsd.state.md.us](http://www.dsd.state.md.us).
- c. **Competent Professional Authority (CPA)** – As per Federal Regulation 7 CFR §246.2 Competent Professional Authority means an individual on the staff of the local agency authorized to determine nutritional risk and prescribe supplemental foods. The following persons are the only persons the State agency may authorize to serve as a competent professional authority: Physicians, nutritionists (bachelor's or master's degree in Nutritional Sciences, Community Nutrition, Clinical Nutrition, Dietetics, Public Health Nutrition or Home Economics with emphasis in Nutrition), dieticians, registered nurses, physician's assistants (certified by the National Committee on Certification of Physician's Assistants or certified by the State medical certifying authority).
- d. **Contract** – The Contract awarded to the successful Offeror pursuant to this RFP. The Contract will be in the form of **Attachment A**.
- e. **Contract Monitor (CM)** – The State representative for this Contract who is primarily responsible for Contract administration functions, including issuing written direction, invoice approval, monitoring this Contract to ensure compliance with the terms and conditions of the Contract, monitoring MBE and VSBE compliance, and achieving completion of the Contract on budget, on time, and within scope.
- f. **Contract Officer (CO)** – The Office of Procurement and Support Services (OPASS) designated individual assigned to facilitate the procurement process. The Procurement Officer may designate the Contract Officer to conduct components of the procurement on behalf of the Procurement Officer.

- g. **Contractor** – The selected Offeror that is awarded a Contract by the State.
- h. **Department or DHMH** – Maryland Department of Health and Mental Hygiene.
- i. **eMM** – eMaryland Marketplace (see RFP Section 1.8).
- j. **Food instrument** - commonly known as a check that is used by a WIC participant to obtain supplemental foods at a WIC authorized store.
- k. **Go-Live Date** – The date when the Contractor must begin providing all services required by this solicitation.
- l. **Key personnel** - a Competent Professional Authority (CPA) and other personnel as identified in 3.2.1.B.
- m. **Local Agency** - means a public or private, nonprofit health or human service agency which provides health services, either directly or through contract, and administers a WIC Program according to the services to be performed in this RFP.
- n. **Local Time** – Time in the Eastern Time Zone as observed by the State of Maryland. Unless otherwise specified, all stated times shall be Local Time, even if not expressly designated as such.
- o. **Minority Business Enterprise (MBE)** – Any legal entity certified as defined at COMAR 21.01.02.01B(54) which is certified by the Maryland Department of Transportation under COMAR 21.11.03.
- p. **Normal State Business Hours** - Normal State business hours are 8:00 a.m. – 5:00 p.m. Monday through Friday except State Holidays, which can be found at: [www.dbm.maryland.gov](http://www.dbm.maryland.gov) – keyword: State Holidays.
- q. **Notice to Proceed (NTP)** – A letter from the Contract Monitor to the Contractor stating the date the Contractor can begin work subject to the conditions of the Contract. After Contract commencement, additional NTPs may be issued by the Contract Monitor regarding the start date for any service included within this RFP with a delayed, or non-specified implementation date, or if the Department decides to exercise any optional services identified in this RFP.
- r. **Offeror** – An entity that submits a Proposal in response to this RFP.
- s. **Procurement Coordinator** – The State representative designated by the Procurement Officer to perform certain duties related to this solicitation which are expressly set forth herein.
- t. **Procurement Officer** – The State representative for the resulting Contract. The Procurement Officer is responsible for the Contract and is the only State representative who can authorize changes to the Contract. DHMH may change the Procurement Officer at any time by written notice to the Contractor.
- u. **Proposal** – As appropriate, either or both of an Offeror’s Technical or Financial Proposal.
- v. **Request for Proposals (RFP)** – This Request for Proposals issued by the Maryland Department of Health and Mental Hygiene, Maryland WIC Program, Prevention and Health Promotion Administration , Solicitation Number OPASS-14-13398 dated April 9, 2013, including any addenda.
- w. **State** – The State of Maryland.
- x. **Veteran-owned Small Business Enterprise (VSBE)** – a business that is verified by the Center for Veterans Enterprise of the United States Department of Veterans Affairs as a veteran-owned small business. See Code of Maryland Regulations (COMAR) 21.11.13.



- y. **Working Day** – Same as “Business Day.”

### 1.3 Contract Type

The Contract that results from this RFP shall be a cost reimbursement contract in accordance with COMAR 21.06.03.03 with caps on permitted reimbursement as per the funding provisions of COMAR 10.54.02.18. The Contractor must provide all required services for no more than the funding permitted by COMAR 10.54.02.18, but that if all required services are provided for less than the specified level of funding that contract reimbursement will be at the actual level of expenditures.

### 1.4 Contract Duration

- 1.4.1 The Contract that results from this solicitation shall commence as of the date the Contract is signed by the Department following approval of the Contract by the Board of Public Works, if such approval is required (“Contract Commencement”).
- 1.4.2 From the date of Contract Commencement through approximately **September 23, 2013**, or a later date contained in a Notice to Proceed issued by the Contract Monitor (the “Go-Live Date”), the Contractor shall perform start-up activities such as are necessary to enable the Contractor to begin the successful performance of Contract activities as of the Go-Live Date. No compensation will be paid to the Contractor for any start-up activities it performs between the date of Contract Commencement and the Go-Live Date.
- 1.4.3 As of the Go-Live Date of **September 23, 2013**, or a later date as contained in a Notice to Proceed issued by the Contract Monitor, the Contractor shall begin performing all activities required by the Contract, including the requirements of the solicitation.
- 1.4.4 The duration of the Contract will be from the date of Contract Commencement through approximately **September 22, 2018** for the provision of all services required by the Contract, and the requirements of the RFP including the start-up activities described in RFP Section 1.4.2.
- 1.4.5 The Contractor’s obligations to pay invoices to subcontractors that provided services during the Contract term, as well as the audit, confidentiality, document retention, and indemnification obligations of the Contract (see Attachment A) shall survive expiration or termination of the Contract and continue in effect until all such obligations are satisfied.

### 1.5 Procurement Officer

- 1.5.1 Except for the Contract Officer and Procurement Coordinator identified below, the sole point of contact in the State for purposes of this solicitation prior to the award of any Contract is the Procurement Officer at the address listed below:

Sharon Gambrill  
Maryland Department of Health and Mental Hygiene  
Office of Procurement and Support Services  
201 West Preston Street, Room 416B  
Baltimore, Maryland 21201  
Phone Number: (410) 767-5816  
Fax Number: (410) 333-5958  
E-mail: sharon.gambrill@maryland.gov

The Department may change the Procurement Officer at any time by written notice.

1.5.2 The Procurement Officer designates the following individual as the Contract Officer, who is authorized to act on behalf of the Procurement Officer:

Allegra Daye  
Maryland Department of Health and Mental Hygiene  
Office of Procurement and Support Services  
201 West Preston Street  
Baltimore, MD 21201  
Phone Number: (410) 767-5741  
Fax Number: (410) 333-5958  
E-mail: [allegra.daye@maryland.gov](mailto:allegra.daye@maryland.gov)

The Department may change the Contract Officer at any time by written notice.

1.5.3 The Procurement Officer designates the following individual as the Procurement Coordinator, who is authorized to act on behalf of the Procurement Officer only as expressly set forth in this solicitation:

Vern L. Shird, CPPB  
Procurement Coordinator  
Prevention and Health Promotion Administration  
Department of Health and Mental Hygiene  
201 W. Preston St. Room 306  
Baltimore, MD 21201  
Phone: 410-767-5555  
Fax: 410-333-7106  
E-Mail: [vern.shird@maryland.gov](mailto:vern.shird@maryland.gov)

The Department may change the Procurement Coordinator at any time by written notice.

## **1.6 Contract Monitor**

The Contract Monitor is:

Gene Nadolny  
Maryland Department of Health and Mental Hygiene  
Maryland WIC Program  
201 West Preston Street, 1<sup>st</sup> floor  
Baltimore, MD 21201  
Phone Number: (410) 767-5239  
Fax Number: (410) 333-5683  
Email: [gene.nadolny@maryland.gov](mailto:gene.nadolny@maryland.gov)

The Department may change the Contract Monitor at any time by written notice.

## **1.7 Pre-Proposal Conference**

A Pre-Proposal Conference (the Conference) will be held on April 19, 2013, beginning at 10:00 a.m. Local Time, at Maryland Department of Health & Mental Hygiene, 201 W. Preston Street, Lobby Room L-4, Baltimore, MD 21201. Attendance at the Conference is not mandatory, but all prospective Offerors are encouraged to attend in order to facilitate better preparation of their Proposals.

The Conference will be summarized. As promptly as is feasible subsequent to the Conference, a summary of the Conference and all questions and answers known at that time will be distributed to all prospective Offerors known to

have received a copy of this RFP. This summary, as well as the questions and answers, will also be posted on eMaryland Marketplace. See RFP Section 1.8.

In order to assure adequate seating and other accommodations at the Conference, please e-mail, mail, or fax to 410-333-7106 the Pre-Proposal Conference Response Form to the attention of the Procurement Coordinator no later than 4:00 p.m. Local Time on April 16, 2013. The Pre-Proposal Conference Response Form is included as **Attachment E** to this RFP. In addition, if there is a need for sign language interpretation and/or other special accommodations due to a disability, please notify the Procurement Coordinator no later than April 15, 2013. The Department will make a reasonable effort to provide such special accommodation.

## **1.8 eMarylandMarketplace**

Each Offeror is requested to indicate its eMaryland Marketplace (eMM) vendor number in the Transmittal Letter (cover letter) submitted at the time of its Proposal submission to this RFP.

eMM is an electronic commerce system administered by the Maryland Department of General Services. In addition to using the DHMH website (<http://www.dhmf.maryland.gov/procumnt/SitePages/procopps.aspx>) and possibly other means for transmitting the RFP and associated materials, the solicitation and summary of the Pre-Proposal Conference, Offeror questions and the Procurement Officer's responses, addenda, and other solicitation-related information will be provided via eMM.

In order to receive a contract award, a vendor must be registered on eMM. Registration is free. Go to <https://emaryland.buyspeed.com/bsa/login.jsp>, click on "Register" to begin the process, and then follow the prompts.

## **1.9 Questions**

Written questions from prospective Offerors will be accepted by the Procurement Officer prior to the Conference. If possible and appropriate, such questions will be answered at the Conference. (No substantive question will be answered prior to the Conference.) Questions to the Procurement Officer shall be submitted via e-mail to the following e-mail address: [dhmf.solicitationquestions@maryland.gov](mailto:dhmf.solicitationquestions@maryland.gov). Please identify in the subject line the Solicitation Number and Title. Questions, both oral and written, will also be accepted from prospective Offerors attending the Conference. If possible and appropriate, these questions will be answered at the Conference.

Questions will also be accepted subsequent to the Conference and should be submitted to the Procurement Officer (**see above email address**) in a timely manner prior to the Proposal due date. Questions are requested to be submitted at least five (5) days prior to the Proposal due date. The Procurement Officer, based on the availability of time to research and communicate an answer, shall decide whether an answer can be given before the Proposal due date. Time permitting, answers to all substantive questions that have not previously been answered, and are not clearly specific only to the requestor, will be distributed to all vendors that are known to have received a copy of the RFP in sufficient time for the answer to be taken into consideration in the Proposal.

## **1.10 Procurement Method**

This Contract will be awarded in accordance with the Competitive Sealed Proposals method under COMAR 21.05.03.

## **1.11 Proposals Due (Closing) Date and Time**

Proposals, in the number and form set forth in Section 4.2 "Proposals" must be received by the Procurement Officer at the address listed on the Key Information Summary Sheet, no later than 2:00 p.m. Local Time on May 3, 2013 in order to be considered.

Requests for extension of this time or date will not be granted. Offerors mailing Proposals should allow sufficient mail delivery time to ensure timely receipt by the Procurement Officer. Except as provided in COMAR 21.05.02.10, Proposals received after the due date and time listed in this section will not be considered.

Proposals may be modified or withdrawn by written notice received by the Procurement Officer before the time and date set forth in this section for receipt of Proposals.

**Proposals may not be submitted by e-mail or facsimile.**

Vendors not responding to this solicitation are requested to submit the “Notice to Vendors” form, which includes company information and the reason for not responding (e.g., too busy, cannot meet mandatory requirements, etc.). This form is located in the RFP immediately following the Title Page (page ii).

### **1.12 Multiple or Alternate Proposals**

Multiple and/or alternate Proposals will not be accepted.

### **1.13 Economy of Preparation**

Proposals should be prepared simply and economically and provide a straightforward and concise description of the Offeror’s Proposal to meet the requirements of this RFP.

### **1.14 Public Information Act Notice**

An Offeror should give specific attention to the clear identification of those portions of its Proposal that it considers confidential and/or proprietary commercial information or trade secrets, and provide justification why such materials, upon request, should not be disclosed by the State under the Public Information Act, Md. Code Ann., State Government Article, Title 10, Subtitle 6. (Also, see RFP Section 4.4.3.2 “Claim of Confidentiality”). This confidential and/or proprietary information should be identified by page and section number and placed after the Title Page and before the Table of Contents in the Technical and if applicable, separately in the Financial Proposal.

Offerors are advised that, upon request for this information from a third party, the Procurement Officer is required to make an independent determination whether the information must be disclosed.

### **1.15 Award Basis**

The Contract shall be awarded to the responsible Offeror submitting the Proposal that has been determined to be the most advantageous to the State, considering evaluation factors set forth in this RFP (see COMAR 21.05.03.03.F), for providing the goods and services as specified in this RFP. See RFP Section 5 for further information.

### **1.16 Oral Presentation**

Offerors may be required to make oral presentations to State representatives. Offerors must confirm in writing any substantive oral clarification of, or change in, their Proposals made in the course of discussions. Any such written clarifications or changes then become part of the Offeror’s Proposal and are binding if the Contract is awarded. The Procurement Officer will notify Offerors of the time and place of oral presentations.

### **1.17 Duration of Proposal**

Proposals submitted in response to this RFP are irrevocable for 120 days following the closing date of the Proposals. This period may be extended at the Procurement Officer's request only with the Offeror's written agreement.

### **1.18 Revisions to the RFP**

If it becomes necessary to revise this RFP before the due date for Proposals, the Department shall endeavor to provide addenda to all prospective Offerors that were sent this RFP or which are otherwise known by the Procurement Officer to have obtained this RFP. In addition, addenda to the RFP will be posted on the DHMH Current Procurements web page and through eMM. It remains the responsibility of all prospective Offerors to check all applicable websites for any addenda issued prior to the submission of Proposals. Addenda made after the due date for Proposals will be sent only to those Offerors that submitted a timely Proposal and that remain under award consideration as of the issuance date of the addenda.

Acknowledgment of the receipt of all addenda to this RFP issued before the Proposal due date shall be included in the Transmittal Letter accompanying the Offeror's Technical Proposal. Acknowledgement of the receipt of addenda to the RFP issued after the Proposal due date shall be in the manner specified in the addendum notice. Failure to acknowledge receipt of an addendum does not relieve the Offeror from complying with the terms, additions, deletions, or corrections set forth in the addendum.

### **1.19 Cancellations**

The State reserves the right to cancel this RFP, accept or reject any and all Proposals, in whole or in part, received in response to this RFP, to waive or permit the cure of minor irregularities, and to conduct discussions with all qualified or potentially qualified Offerors in any manner necessary to serve the best interests of the State. The State also reserves the right, in its sole discretion, to award a Contract based upon the written proposals received without discussions or negotiations.

### **1.20 Incurred Expenses**

The State will not be responsible for any costs incurred by any Offeror in preparing and submitting a Proposal, in making an oral presentation, in providing a demonstration, or in performing any other activities related to this solicitation.

### **1.21 Protest/Disputes**

Any protest or dispute related, respectively, to this solicitation or the resulting Contract shall be subject to the provisions of COMAR 21.10 (Administrative and Civil Remedies).

### **1.22 Offeror Responsibilities**

The selected Offeror shall be responsible for all products and services required by this RFP. All subcontractors must be identified and a complete description of their role relative to the Proposal must be included in the Offeror's Proposal. If applicable, subcontractors utilized in meeting the established MBE or VSBE participation goal(s) for this solicitation shall be identified as provided in the appropriate Attachment(s) of this RFP (see Section 1.33 "Minority Business Enterprise Goals" and Section 1.41 "Veteran-Owned Small Business Enterprise Goals").

If an Offeror that seeks to perform or provide the services required by this RFP is the subsidiary of another entity, all information submitted by the Offeror, including but not limited to references, minimum qualifications, and financial reports, or experience and documentation (e.g. insurance policies, bonds, letters of credit) used to meet minimum qualifications, if any, shall pertain exclusively to the Offeror, unless the parent organization will guarantee the

performance of the subsidiary. If applicable, the Offeror's proposal shall contain an explicit statement that the parent organization will guarantee the performance of the subsidiary.

A parental guarantee of the performance of the Offeror under this Section will not automatically result in crediting the Offeror with the experience and/or qualifications of the parent under any evaluation criteria pertaining to the Offeror's experience and qualifications. Instead, the Offeror will be evaluated on the extent to which the State determines that the experience and qualification of the parent are transferred to and shared with the Offeror, the parent is directly involved in the performance of the Contract, and the value of the parent's participation as determined by the State.

### **1.23 Substitution of Personnel**

#### **A. Continuous Performance of Key Personnel**

Unless substitution is approved per paragraphs B-D of this section, key personnel shall be the same personnel proposed in the Contractor's Technical Proposal, which will be incorporated into the Contract by reference. Such identified key personnel shall perform continuously for the duration of the Contract, or such lesser duration as specified in the Technical Proposal. Key personnel may not be removed by the Contractor from working under this Contract, as described in the RFP or the Contractor's Technical Proposal, without the prior written approval of the Contract Monitor.

If the Contract is task order based, the provisions of this section apply to key personnel identified in each task order proposal and agreement.

#### **B. Definitions**

For the purposes of this section, the following definitions apply:

**Extraordinary Personal Circumstance** – means any circumstance in an individual's personal life that reasonably requires immediate and continuous attention for more than fifteen (15) days and that precludes the individual from performing his/her job duties under this Contract. Examples of such circumstances may include, but are not limited to: a sudden leave of absence to care for a family member who is injured, sick, or incapacitated; the death of a family member, including the need to attend to the estate or other affairs of the deceased or his/her dependents; substantial damage to, or destruction of, the individual's home that causes a major disruption in the individual's normal living circumstances; criminal or civil proceedings against the individual or a family member; jury duty; and military service call-up.

**Incapacitating** – means any health circumstance that substantially impairs the ability of an individual to perform the job duties described for that individual's position in the RFP or the Contractor's Technical Proposal.

**Sudden** – means when the Contractor has less than thirty (30) days' prior notice of a circumstance beyond its control that will require the replacement of any key personnel working under the Contract.

#### **C. Key Personnel General Substitution Provisions**

The following provisions apply to all of the circumstances of staff substitution described in paragraph D of this section.

1. The Contractor shall demonstrate to the Contract Monitor's satisfaction that the proposed substitute key personnel have qualifications at least equal to those of the key personnel for whom the replacement is requested.
2. The Contractor shall provide the Contract Monitor with a substitution request that shall include:

- A detailed explanation of the reason(s) for the substitution request;
  - The resume of the proposed substitute personnel, signed by the substituting individual and his/her formal supervisor;
  - The official resume of the current personnel for comparison purposes; and
  - Any evidence of any required credentials.
3. The Contract Monitor may request additional information concerning the proposed substitution. In addition, the Contract Monitor and/or other appropriate State personnel involved with the Contract may interview the proposed substitute personnel prior to deciding whether to approve the substitution request.
  4. The Contract Monitor will notify the Contractor in writing of: (i) the acceptance or denial, or (ii) contingent or temporary approval for a specified time limit, of the requested substitution. The Contract Monitor will not unreasonably withhold approval of a requested key personnel replacement.

#### D. Replacement Circumstances

##### 1. Voluntary Key Personnel Replacement

To voluntarily replace any key personnel, the Contractor shall submit a substitution request as described in paragraph C of this section to the Contract Monitor at least fifteen (15) days prior to the intended date of change. Except in a circumstance described in paragraph D.2 of this clause, a substitution may not occur unless and until the Contract Monitor approves the substitution in writing.

##### 2. Key Personnel Replacement Due to Vacancy

The Contractor shall replace key personnel whenever a vacancy occurs due to the sudden termination, resignation, leave of absence due to an Extraordinary Personal Circumstance, Incapacitating injury, illness or physical condition, or death of such personnel. (A termination or resignation with thirty (30) days or more advance notice shall be treated as a Voluntary Key Personnel Replacement as per Section D.1 of this section.).

Under any of the circumstances set forth in this paragraph D.2, the Contractor shall identify a suitable replacement and provide the same information or items required under paragraph C of this section within fifteen (15) days of the actual vacancy occurrence or from when the Contractor first knew or should have known that the vacancy would be occurring, whichever is earlier.

##### 3. Key Personnel Replacement Due to an Indeterminate Absence

If any key personnel has been absent from his/her job for a period of ten (10) days due to injury, illness, or other physical condition, leave of absence under a family medical leave, or an Extraordinary Personal Circumstance and it is not known or reasonably anticipated that the individual will be returning to work within the next twenty (20) days to fully resume all job duties, before the 25th day of continuous absence, the Contractor shall identify a suitable replacement and provide the same information or items to the Contract Monitor as required under paragraph C of this section.

However, if this person is available to return to work and fully perform all job duties before a replacement has been authorized by the Contract Monitor, at the option and sole discretion of the Contract Monitor, the original personnel may continue to work under the Contract, or the replacement personnel will be authorized to replace the original personnel, notwithstanding the original personnel's ability to return.

##### 4. Directed Personnel Replacement

- a. The Contract Monitor may direct the Contractor to replace any personnel who are perceived as being unqualified, non-productive, unable to fully perform the job duties due to full or partial

Incapacity or Extraordinary Personal Circumstance, disruptive, or known, or reasonably believed, to have committed a major infraction(s) of law, agency, or Contract requirements. Normally, a directed personnel replacement will occur only after prior notification of problems with requested remediation, as described in paragraph 4.b. If after such remediation the Contract Monitor determines that the personnel performance has not improved to the level necessary to continue under the Contract, if at all possible at least fifteen (15) days notification of a directed replacement will be provided. However, if the Contract Monitor deems it necessary and in the State's best interests to remove the personnel with less than fifteen (15) days' notice, the Contract Monitor can direct the removal in a timeframe of less than fifteen (15) days, including immediate removal.

In circumstances of directed removal, the Contractor shall, in accordance with paragraph C of this section, provide a suitable replacement for approval within fifteen (15) days of the notification of the need for removal, or the actual removal, whichever occurs first.

- b. If deemed appropriate in the discretion of the Contract Monitor, the Contract Monitor shall give written notice of any personnel performance issues to the Contractor, describing the problem and delineating the remediation requirement(s). The Contractor shall provide a written Remediation Plan within ten (10) days of the date of the notice and shall implement the Remediation Plan immediately upon written acceptance by the Contract Monitor. If the Contract Monitor rejects the Remediation Plan, the Contractor shall revise and resubmit the plan to the Contract Monitor within five (5) days, or in the timeframe set forth by the Contract Monitor in writing.

Should performance issues persist despite the approved Remediation Plan, the Contract Monitor will give written notice of the continuing performance issues and either request a new Remediation Plan within a specified time limit or direct the substitution of personnel whose performance is at issue with a qualified substitute, including requiring the immediate removal of the key personnel at issue.

Replacement or substitution of personnel under this section shall be in addition to, and not in lieu of, the State's remedies under the Contract or which otherwise may be available at law.

## **1.24 Mandatory Contractual Terms**

By submitting a Proposal in response to this RFP, an Offeror, if selected for award, shall be deemed to have accepted the terms and conditions of this RFP and the Contract, attached herein as **Attachment A**. Any exceptions to this RFP or the Contract shall be clearly identified in the Executive Summary of the Technical Proposal. **Changes to the solicitation, including the Proposal Form or Contract, made by the Offeror may result in Proposal rejection.**

## **1.25 Proposal/Proposal Affidavit**

A Proposal submitted by an Offeror must be accompanied by a completed Bid/Proposal Affidavit. A copy of this Affidavit is included as **Attachment B** of this RFP.

## **1.26 Contract Affidavit**

All Offerors are advised that if a Contract is awarded as a result of this solicitation, the successful Offeror will be required to complete a Contract Affidavit. A copy of this Affidavit is included as **Attachment C** of this RFP. This Affidavit must be provided within five (5) Business Days of notification of proposed Contract award.



### **1.27 Compliance with Laws/Arrearages**

By submitting a Proposal in response to this RFP, the Offeror, if selected for award, agrees that it will comply with all Federal, State, and local laws applicable to its activities and obligations under the Contract.

By submitting a response to this solicitation, each Offeror represents that it is not in arrears in the payment of any obligations due and owing the State, including the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of the Contract if selected for Contract award.

### **1.28 Verification of Registration and Tax Payment**

Before a business entity can do business in the State it must be registered with the State Department of Assessments and Taxation (SDAT). SDAT is located at State Office Building, Room 803, 301 West Preston Street, Baltimore, Maryland 21201. The SDAT website is <http://www.dat.state.md.us/sdatweb/datanote.html>.

It is strongly recommended that any potential Offeror complete registration prior to the due date for receipt of Proposals. An Offeror's failure to complete registration with SDAT may disqualify an otherwise successful Offeror from final consideration and recommendation for Contract award.

### **1.29 False Statements**

Offerors are advised that Md. Code Ann., State Finance and Procurement Article, § 11-205.1 provides as follows:

1.29.1 In connection with a procurement contract a person may not willfully:

- (a) Falsify, conceal, or suppress a material fact by any scheme or device;
- (b) Make a false or fraudulent statement or representation of a material fact; or
- (c) Use a false writing or document that contains a false or fraudulent statement or entry of a material fact.

1.29.2 A person may not aid or conspire with another person to commit an act under subsection (1) of this section.

1.29.3 A person who violates any provision of this section is guilty of a felony and on conviction is subject to a fine not exceeding \$20,000 or imprisonment not exceeding five years or both.

### **1.30 Payments by Electronic Funds Transfer**

By submitting a response to this solicitation, the Bidder/Offeror agrees to accept payments by electronic funds transfer (EFT) unless the State Comptroller's Office grants an exemption. Payment by EFT is mandatory for contracts exceeding \$100,000. The selected Bidder/Offeror shall register using the COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form. Any request for exemption must be submitted to the State Comptroller's Office for approval at the address specified on the COT/GAD X-10 form, must include the business identification information as stated on the form, and must include the reason for the exemption. The COT/GAD X-10 form may be downloaded from the Comptroller's website at:

[http://comptroller.marylandtaxes.com/Government\\_Services/State\\_Accounting\\_Information/Static\\_Files/APM/gadx-10.pdf](http://comptroller.marylandtaxes.com/Government_Services/State_Accounting_Information/Static_Files/APM/gadx-10.pdf)

### **1.31 Prompt Payment Policy**

This procurement and the Contract(s) to be awarded pursuant to this solicitation are subject to the Prompt Payment Policy Directive issued by the Governor's Office of Minority Affairs (GOMA) and dated August 1, 2008. Promulgated pursuant to Md. Code Ann., State Finance and Procurement Article, §§ 11-201, 13-205(a), and Title 14, Subtitle 3, and COMAR 21.01.01.03 and 21.11.03.01, the Directive seeks to ensure the prompt payment of all subcontractors on non-construction procurement contracts. The Contractor must comply with the prompt payment requirements outlined in the Contract, Section 31 "Prompt Payment" (see **Attachment A**). Additional information is available on GOMA's website at:

[http://www.mdminoritybusiness.com/documents/PROMPTPAYMENTFAQs\\_000.pdf](http://www.mdminoritybusiness.com/documents/PROMPTPAYMENTFAQs_000.pdf).

### **1.32 Electronic Procurements Authorized**

- A. Under COMAR 21.03.05, unless otherwise prohibited by law, DHMH may conduct procurement transactions by electronic means, including the solicitation, bidding, award, execution, and administration of a contract, as provided in Md. Code Ann., Maryland Uniform Electronic Transactions Act, Commercial Law Article, Title 21.
- B. Participation in the solicitation process on a procurement contract for which electronic means has been authorized shall constitute consent by the Bidder/Offeror to conduct by electronic means all elements of the procurement of that Contract which are specifically authorized under the solicitation or the Contract.
- C. "Electronic means" refers to exchanges or communications using electronic, digital, magnetic, wireless, optical, electromagnetic, or other means of electronically conducting transactions. Electronic means includes facsimile, e-mail, internet-based communications, electronic funds transfer, specific electronic bidding platforms (e.g., <https://emaryland.buyspeed.com/bsol/>) and electronic data interchange.
- D. In addition to specific electronic transactions specifically authorized in other sections of this solicitation (e.g., § 1.30 "Payments by Electronic Funds Transfer") and subject to the exclusions noted in section E of this subsection, the following transactions are authorized to be conducted by electronic means on the terms described:
  - 1. The Procurement Officer may conduct the procurement using eMM, e-mail or facsimile to issue:
    - (a) the solicitation (e.g., the IFB/RFP);
    - (b) any amendments;
    - (c) pre-bid/proposal conference documents;
    - (d) questions and responses;
    - (e) communications regarding the solicitation or Bid/Proposal to any Bidder/Offeror or potential Bidder/Offeror;
    - (f) notices of award selection or non-selection; and
    - (g) the Procurement Officer's decision on any bid protest or Contract claim.
  - 2. A Bidder/Offeror or potential Bidder/Offeror may use e-mail or facsimile to:
    - (a) ask questions regarding the solicitation;
    - (b) reply to any material received from the Procurement Officer by electronic means that includes a Procurement Officer's request or direction to reply by e-mail or facsimile, but only on the terms specifically approved and directed by the Procurement Officer;
    - (c) submit a "No Bid/Proposal Response" to the solicitation.
  - 3. The Procurement Officer, the Contract Monitor, and the Contractor may conduct day-to-day Contract administration, except as outlined in Section E of this subsection utilizing e-mail, facsimile, or other electronic means if authorized by the Procurement Officer or Contract Monitor.

- E. The following transactions related to this procurement and any Contract awarded pursuant to it are *not authorized* to be conducted by electronic means:
1. submission of initial Bids or Proposals;
  2. filing of Bid Protests;
  3. filing of Contract Claims;
  4. submission of documents determined by DHMH to require original signatures (e.g., Contract execution, Contract modifications, etc.); or
  5. any transaction, submission, or communication where the Procurement Officer has specifically directed that a response from the Contractor or Bidder/Offeror be provided in writing or hard copy.
- F. Any facsimile or e-mail transmission is only authorized to the facsimile numbers or e-mail addresses for the identified person as provided in the solicitation, the Contract, or in the direction from the Procurement Officer or Contract Monitor.

### **1.33 Minority Business Enterprise Goals**

There is no MBE subcontractor participation goal for this procurement.

### **1.34 Living Wage Requirements**

A solicitation for services under a State contract valued at \$100,000 or more may be subject to Md. Code Ann., State Finance and Procurement Article, Title 18. Additional information regarding the State's living wage requirement is contained in **Attachment G**. Bidders/Offerors must complete and submit the Maryland Living Wage Requirements Affidavit (**Attachment G-1**) with their Bid/Proposal. If a Bidder/Offeror fails to complete and submit the required documentation, the State may determine a Bidder/Offeror to be not responsible under State law.

Contractors and subcontractors subject to the Living Wage Law shall pay each covered employee at least the minimum amount set by law for the applicable Tier area. The specific living wage rate is determined by whether a majority of services take place in a Tier 1 Area or Tier 2 Area of the State. The Tier 1 Area includes Montgomery, Prince George's, Howard, Anne Arundel and Baltimore Counties, and Baltimore City. The Tier 2 Area includes any county in the State not included in the Tier 1 Area. In the event that the employees who perform the services are not located in the State, the head of the unit responsible for a State Contract pursuant to §18-102(d) of the State Finance and Procurement Article shall assign the tier based upon where the recipients of the services are located.

The Contract resulting from this solicitation will be determined to be a Tier 1 Contract or a Tier 2 Contract depending on the location(s) from which the Contractor provides 50% or more of the services. The Bidder/Offeror must identify in its Bid/Proposal the location(s) from which services will be provided, including the location(s) from which 50% or more of the Contract services will be provided.

- If the Contractor provides 50% or more of the services from a location(s) in a Tier 1 jurisdiction(s) the Contract will be a Tier 1 Contract.
- If the Contractor provides 50% or more of the services from a location(s) in a Tier 2 jurisdiction(s), the Contract will be a Tier 2 Contract.
- If the Contractor provides more than 50% of the services from an out-of-State location, the State agency determines the wage tier based on where the majority of the service recipients are located. This Contract has been determined to be a Tier 1 Contract.

Information pertaining to reporting obligations may be found by going to the Maryland Department of Labor, Licensing and Regulation (DLLR) website <http://www.dllr.state.md.us/labor/prev/livingwage.shtml>.

**NOTE: Whereas the Living Wage may change annually, the Contract price may not be changed because of a Living Wage change.**

### **1.35 Federal Funding Acknowledgement**

- 1.35.1 There are programmatic conditions that apply to this Contract due to Federal funding. (see **Attachment H**).
- 1.35.2 The total amount of Federal funds allocated for the Prevention and Health Promotion Administration is \$144,543,638 in Maryland State fiscal year 2013. This represents 61% of all funds budgeted for the unit in that fiscal year. This does not necessarily represent the amount of funding available for any particular grant, contract, or solicitation.
- 1.35.3 This Contract contains federal funds. The source of these federal funds is: United States Department of Agriculture, Food and Nutrition Services. The CFDA number is: 10.557. The conditions that apply to all federal funds awarded by the Department are contained in Federal Funds **Attachment H**. Any additional conditions that apply to this particular federally-funded contract are contained as supplements to Federal Funds **Attachment H** and Bidders/Offerors are to complete and submit these Attachments with their Bid/Proposal as instructed in the Attachments. Acceptance of this agreement indicates the Bidder/Offeror's intent to comply with all conditions, which are part of this Contract.

### **1.36 Conflict of Interest Affidavit and Disclosure**

All Bidders/Offerors are advised that if a Contract is awarded as a result of this solicitation, the successful Contractor's personnel who perform or control work under this Contract and each of the participating subcontractor personnel who perform or control work under this Contract shall be required to complete agreements such as **Attachment I** Conflict of Interest Affidavit and Disclosure. For policies and procedures applying specifically to Conflict of Interests, the Contract is governed by COMAR 21.05.08.08. Bidders/Offerors shall complete and sign the Conflict of Interest Affidavit and Disclosure and submit it with their Bid/Proposal.

### **1.37 Non-Disclosure Agreement**

All Bidders/Offerors are advised that this solicitation and any resultant Contract(s) are subject to the terms of the Non-Disclosure Agreement (NDA) contained in this solicitation as **Attachment J**. This Agreement must be provided within five (5) Business Days of notification of proposed Contract award, however, to expedite processing, it is suggested that this document be completed and submitted with the Bid/Proposal.

### **1.38 HIPAA - Business Associate Agreement**

Based on the determination by DHMH that the functions to be performed in accordance with this solicitation constitute Business Associate functions as defined in HIPAA, the recommended awardee shall execute a Business Associate Agreement as required by HIPAA regulations at 45 C.F.R. §164.501 and set forth in **Attachment K**. This Agreement must be provided within five (5) Business Days of notification of proposed Contract award, however, to expedite processing, it is suggested that this document be completed and submitted with the Bid/Proposal. Should the Business Associate Agreement not be submitted upon expiration of the five (5) Business Day period as required by this solicitation, the Procurement Officer, upon review of the Office of the Attorney General and approval of the Secretary, may withdraw the recommendation for award and make the award to the responsible Bidder/Offeror with the next lowest Bid or next highest overall-ranked Proposal..

### **1.39 Nonvisual Access**

This solicitation does not contain Information Technology (IT) provisions requiring Nonvisual Access.

### **1.40 Mercury and Products That Contain Mercury**

All products or equipment provided pursuant to this solicitation shall be mercury-free products. The Bidder/Offeror must submit a Mercury Affidavit in the form of **Attachment L** with its Bid/Proposal.

### **1.41 Veteran-Owned Small Business Enterprise Goals**

There is no Veteran-Owned Small Business Enterprise (VSBE) subcontractor participation goal for this procurement.

### **1.43 Investment Activities in Iran**

The Bidder/Offeror is required to complete the Investment Activities in Iran Certification. A copy of this Certification is included as **Attachment N**. The Certification must be provided with the Bid/Proposal.

### **1.44 Location of the Performance of Services Disclosure**

The Bidder/Offeror is required to complete the Location of the Performance of Services Disclosure. A copy of this Disclosure is included as **Attachment O**. The Disclosure must be provided with the Bid/Proposal.

### **1.45 Department of Human Resources (DHR) Hiring Agreement**

All Bidders/Offerors are advised that if a Contract is awarded as a result of this solicitation, the successful Bidder/Offeror will be required to complete a DHR Hiring Agreement. A copy of this Affidavit is included as **Attachment P**. This Affidavit must be provided within five (5) Business Days of notification of proposed Contract award.

**THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.**

## **SECTION 2 – MINIMUM QUALIFICATIONS**

### **2.1 Offeror Minimum Qualifications**

The Offeror must provide proof with its Proposal that the following Minimum Qualifications have been met:

- 2.1.1 The Offeror shall be a Non-Profit or Not-for-Profit Organization. As proof of meeting this requirement, the Offeror shall provide with its Proposal a copy of its License or Certification stating that the Offeror is a Non-Profit or Not-for-Profit Organization.
- 2.1.2 The Offeror shall have at least two (2) years experience, within the past five (5) years, administering multiple health service programs concurrently at different physical locations. As proof of meeting this requirement, the Offeror shall provide with its Proposal documentation or three (3) references from the past five years able to attest to the Offeror's experience in administering multiple health service programs concurrently at different physical locations for two (2) years.

**The remainder of this page is intentionally left blank.**

## **SECTION 3 – SCOPE OF WORK**

### **3.1 Background and Purpose**

The Maryland Department of Health and Mental Hygiene (DHMH or the Department), Women, Infants, and Children (WIC) Program, is issuing this Request for Proposals (RFP) to administer a WIC Program according to the Local Agency Procedure Manual in targeted areas of Prince George's County. The services include enrolling applicants in the WIC Program, providing supplemental foods through the WIC food instrument system, making nutrition education services available, and providing referrals to health care and other social service agencies as needed. These services and benefits will be provided to pregnant, postpartum, and breastfeeding women, infants, and children under five years of age who are determined eligible.

### **3.2 Scope of Work - Requirements**

3.2.1 The Contractor shall provide the following:

#### **A. Compliance with Regulations**

1. The Contractor shall perform the duties of a Local WIC Agency in accordance with the following regulations, policies, and procedures (Documents a through h below are available on the internet. All documents are available for review at the State WIC Office):
  - a. 7 CFR Part 246; [7 CFR Part 246](#)
  - b. 7 CFR Part 3015; [7 CFR Part 3015](#)
  - c. 7 CFR Part 3016; [7 CFR 3016](#)
  - d. 7 CFR Part 3052; [7 CFR Part 3052](#)
  - e. OMB Circular A-87; [OMB Circular A-87](#)
  - f. COMAR 10.54.01; [Maryland COMAR](#)
  - g. COMAR 10.54.02; [Maryland COMAR](#)
  - h. COMAR 10.54.03; [Maryland COMAR](#)
  - i. U.S. Department of Agriculture, Food and Nutrition Services (FNS) guidelines;
  - j. State of Maryland WIC Program Local Agency Procedure Manual dated October 1, 2013;
  - k. All policies and procedures issued by the State WIC Agency;
  - l. Any revisions to the above-cited documents; and
  - m. Any additional State regulations promulgated by the WIC Program.
2. The Contractor shall ensure no discrimination against persons on the grounds of race, color, national origin, sex, or handicap; and
3. The Contractor shall compile data, maintain records, and submit reports as required to permit effective enforcement of the nondiscrimination laws and regulations.

#### **B. Competent Professional Authority**

1. The Contractor shall employ personnel to perform the following job functions:
  - a. Competent Professional Authority (CPA) to:
    - i. Be on-site at each of the WIC clinic sites during the individual clinic's hours of operation to determine nutrition risk, prescribe supplemental foods, and perform/supervise the certification process, including the measuring of heights and weights, hematological testing and provision of nutrition education; and

- ii. Collaborate with the State WIC Agency to provide or coordinate orientation and initial training, as established by the State WIC Agency, to staff who are not licensed or do not meet the Federal Regulatory definition of a CPA (Attachment Q), but have been hired to determine nutritional risk and prescribe supplemental foods under the supervision of a CPA. Such training shall be completed according to policies and procedures prescribed in the Local Agency Procedure Manual.
  - b. A Registered Dietitian who maintains current registration status by the Commission on Dietetic Registration (CDR) and licensure by the Maryland State Board of Dietetic Practice, or who is eligible and will be registered by the Commission on Dietetic Registration (CDR) within six months from the date of hire to work at least .50 full time equivalent (FTE) to prepare and implement the annual nutrition education plan and to ensure that counseling is provided to the appropriate high risk participants;
  - c. A Breastfeeding Promotion Coordinator to provide breastfeeding education, promotion, and support in the local agency according to the State WIC Agency guidelines. This person would also be responsible for preparing and implementing the annual breastfeeding plan and ensuring that breastfeeding counseling is provided to the appropriate high risk participants. Preferably, this individual should be a licensed or certified health care professional (dietitian, nurse, lactation consultant) who maintains current license/certification status by the respective organization (i.e. Commission on Dietetic Registration for RD, International Board of Lactation Consultant Examiners for (IBLCE); and
  - d. One full time Local Agency Coordinator, preferably with a CPA status, to ensure that the WIC Program services are provided consistent with the USDA and regulations, in accordance with the WIC Program operational policies and procedures and the terms of the contract.
2. The job functions identified in paragraph 1 above need not be performed by separate employees but can be combined as long as the proper amount of time is devoted to each function as described.

**C. Other Personnel**

The Contractor shall employ staff who do not meet the federal definition of a Competent Professional Authority, but who, following successful completion of a training program, receive the designation as Competent Paraprofessional Authorities (CPPA) to determine nutritional risk, prescribe supplemental foods, make referrals, and provide simple, practical and accurate nutrition education and breastfeeding messages to WIC participants according to policies and procedures prescribed in the Local Agency Procedure Manual.

**D. Participant Eligibility Determination**

The Contractor shall determine eligibility of applicants for the WIC Program according to the policies and procedures prescribed in COMAR 10.54.01, COMAR 10.54.02, 7 CFR Part 246, (Attachment Q), and the Local Agency Procedure Manual (Attachment R).

**E. Nutrition Education Services**

The Contractor shall make nutrition education services available to the participants according to the policies and procedures prescribed in COMAR 10.54.01, COMAR 10.54.02, 7 CFR Part 246, (Attachment Q), and the Local Agency Procedure Manual (Attachment R).

**F. Food Delivery System**



The Contractor shall implement and operate a food delivery system according to policies and procedures prescribed in COMAR 10.54.01, COMAR 10.54.02, 7 CFR Part 246, (Attachment Q), and the Local Agency Procedure Manual (Attachment R).

**G. Financial Management System**

The Contractor shall maintain a complete, documented, accurate, and current accounting of all WIC Program funds received and expended according to the policies and procedures prescribed in COMAR 10.54.01, COMAR 10.54.02, 7 CFR Part 246, (Attachment Q), and Local Agency Procedure Manual (Attachment R).

**H. Internal Monitoring System**

The Contractor shall establish an internal monitoring system as specified in the Local Agency Procedure Manual (Attachment R) to review its operation and that of its subcontractors and associated clinics.

**I. Orientation/Training for Staff**

1. The Contractor shall collaborate with the State WIC Agency to coordinate orientation and ongoing in-service training, including Civil Rights training, available for its staff in accordance with the requirements established by the State WIC Agency;
2. The Contractor shall maintain a record of the content and schedule of training activities for staff; and
3. The Contractor shall schedule staff to attend training sessions and other required meetings offered by the State WIC Agency. These include, but are not limited to, the Local Agency Coordinators' Meetings (monthly), Nutritionists' Meetings (quarterly), Breastfeeding Promotion Coordinators' Meetings (quarterly), Nutrition Basics Training, Breastfeeding Basics Training, Lactation Education for WIC Professionals Training and Advanced Lactation Education for WIC Professionals Training.

**.J. Outreach**

1. The Contractor shall implement outreach and follow-up activities as required by the WIC Program policies and procedures contained in the Local Agency Procedure Manual (Attachment R);
2. The Contractor shall implement initiatives to identify and reach potentially eligible persons regarding the availability of the WIC services; and
3. The Contractor shall provide WIC Program information about the eligibility requirements and the benefits to its participants with other social service programs, community health organizations and private health care providers serving potentially eligible applicants who reside within Prince George's County.

**K.. Records and Reports**

1. The Contractor shall maintain full and complete records concerning WIC program operations according to the policies and procedures prescribed in the Local Agency Procedure Manual (Attachment R);
2. The Contractor shall retain all records for a minimum of 3 years following the date of submission of the final expenditure report for the period to which the report pertains, or until an audit is completed

or resolved, or until any pending litigation is resolved, or in accordance with the document retention provisions set forth in Attachment A, whichever is later and more stringent;

3. The Contractor shall ensure that participants' records are available for review, audit, or copying during normal business hours for:
  - a. Representatives of the Comptroller General of the United States, U.S. Department of Agriculture's Office of the Inspector General, Food and Nutrition Service of the U.S. Department of Agriculture (FNS), and
  - b. State-authorized personnel;
4. The Contractor shall allow both State and Federal officials to monitor performance in administering established policies and procedures; and
5. The Contractor shall comply with the confidentiality requirements of this RFP and Contract (Attachment A), as well as the Federal WIC Consolidated Regulations 7 CFR 246.

#### **L.. Equipment**

1. The Contractor shall provide the State WIC Agency, within 60 days of the start date of the Contract, an inventory of facility furnishings/office furnishings with a purchase price of over \$50.00 each, and software, regardless of purchase price, purchased with funds made available under this contract in order to deliver services under this contract or provided by the State WIC Agency. This inventory shall be supported by documentation of the purchase price. The inventory shall be updated as purchases and disposals are made and at the expiration of the contract. The State WIC Agency shall have the right to inspect and reclaim all or part of such equipment upon expiration of the contract.
2. The Contractor shall be responsible and accountable for all WIC Program property provided under this Contract, including any property that may be in the possession or control of any subcontractor. The Contractor shall establish a system to control, protect, preserve, maintain, and account for all WIC Program property under the contract. This system is subject to review from time to time on behalf of the WIC Contract Monitor, who will require any corrections or improvements considered necessary to protect the WIC Program's interest.
3. The Contractor shall ensure that records and the premises where any WIC Program property is located are accessible to authorized representatives of the WIC Contract Monitor at all reasonable times.
4. The Contractor shall notify the WIC Contract Monitor immediately in writing if any WIC Program property is lost, damaged, or stolen. Any loss that may be due to theft shall also be reported immediately to the local police. The Contractor shall be responsible for replacing lost, stolen or damaged property.
5. The Contractor shall be responsible for WIC Program property upon its delivery into the Contractor's custody.
6. The Contractor shall promptly inspect and check all property furnished by the State WIC Agency. At the time of receipt, any visible, audible, or other external evidence of damage should be noted on the waybill with the signature of the carrier's agent. As soon as possible, the Contractor must send the WIC Contract Monitor a full report of damage, including its extent, its apparent cause, and the estimated cost of repairs. The WIC Contract Monitor will advise the Contractor of the action to be taken. For damage, defect, or error in delivery of WIC Program property purchased by the Contractor, the Contractor is responsible for taking all corrective action.

7. The Contractor shall identify all WIC Program property and keep it on record, separate and distinct from all other property in its possession. Neither WIC Program property, nor any part of WIC Program property shall be or become a fixture, or lose its identity as WIC Program property by incorporation in or annexation to property not owned by the WIC Program, unless such annexation is specifically authorized by the WIC Contract Monitor.
8. The Contractor shall use WIC Program property only for the performance of this Contract.
9. The Contractor shall maintain WIC Program property in as good condition as when received except for reasonable wear, tear, and depreciation.

**M. Location, Design and Size of Clinics**

1. The Contractor shall have three WIC clinic sites approved in its final work plan fully staffed and operational by the Go-Live Date. The Contractor shall thereafter maintain these approved WIC clinic sites for the entire Contract duration, except for any site changes that are approved in writing by the WIC Contract Monitor.
2. The Contractor shall maintain alternate sites that will be used to continue providing WIC Program services when a clinic is closed due to an emergency as approved in its final work plan for the entire Contract duration, except for any site changes that are approved in writing by the WIC Contract Monitor.
3. The Contractor shall ensure that the WIC clinic sites, administrative office(s), and alternate sites will be accessible by public transportation to individuals who rely on public transportation and to individuals with disabilities.
4. The Contractor shall agree to expand WIC services, as determined by the State WIC Office, by opening additional WIC clinics.
5. The Contractor shall ensure that each clinic site has adequate areas of space for each function, as defined in Attachment U, of the certification and food instrument distribution processes.
6. The Contractor shall ensure that each clinic site has internet access for each work station and printer in the proposed clinic sites and administrative office to accommodate the WIC on the Web (WOW) information system.
7. The Contractor shall ensure that each clinic site not exceed a maximum number of 10,000 participants served.

**N.. Provision of Services**

1. The Contractor shall have a staff to participant ratio of 1:400 at each clinic. Key personnel may be included in the staffing pattern.
2. The Contractor shall schedule sufficient days and hours for each WIC clinic site to be open in order to provide timely WIC certification, food instrument distribution or other activities, including a combination of morning, afternoon and evening hours and a minimum of two Saturdays per month to achieve and maintain assigned caseload.
3. The Contractor shall provide a telephone system to accommodate the volume of applicant and participant inquiries which shall be operated continuously for a minimum of 8 ½ hours Monday through Friday by staff who are fluent in English and Spanish, as appropriate to the area served.

4. The Contractor shall provide for a functional floor plan for all sites that will be used to provide WIC services.

**O. Incoming Transition Plan**

The Contractor shall submit to the WIC Program for their approval, within three business days of the Notice To Proceed date, a final work plan that confirms that the dates and specific actions described in the Contractor's proposal (either initially or as revised after discussions) will happen as projected.

**P.. Outgoing Transition Plan**

1. The Contractor shall conduct an inventory of all furniture and equipment purchased with WIC funds in its possession or in the possession of a subcontractor within five business days before the Contractor's completion or termination of this Contract in the presence of a State Agency Office representative and submit to the WIC Contract Monitor three copies of the inventory.
2. The Contractor shall return all furniture and equipment purchased with WIC funds to the State WIC Program or to a location designated by the State WIC Program at the Contractor's expense within the timeframe specified by the State WIC Program

**Q.. Leases**

1. The Contractor shall ensure that all leases for WIC clinics and administrative space signed after the Contract is awarded:
  - a. Contain language that states the tenant is leasing the space to provide WIC services funded by a Contract awarded by the State of Maryland;
  - b. Contain language that states if the tenant is not awarded a subsequent contract by the State of Maryland, the landlord shall allow the space to be leased to the private or public non-profit health care agency that is awarded a contract by the State of Maryland to continue providing WIC services in the area (successor contractor) or terminated;
  - c. Contain language that states if renovation costs are incurred, the lease will be extended until WIC has received full benefit from the cost of the construction or renovations; or if the landlord cancels the lease or the tenant is forced to vacate the space during the lease then the tenant will be refunded the dollar amount representing the portion of the renovation cost for which the contract has not yet received full benefit; and
  - d. Contain language that states the WIC Program is a federally-funded program receiving their funds from the United States Department of Agriculture (USDA). If the USDA fails to appropriate funds or if funds are not otherwise made available to the State of Maryland to administer a WIC Program, the tenant can terminate the lease within the agreed terms of the lease. The State will not assume any on-going lease or other contractual arrangements that may have obligated the Contractor.
2. It is suggested that the Contractor shall negotiate leases for a minimum period of five years with an option for an additional five year renewal, if agreed to by the lessor that can be invoked by the tenant or a successor contractor.
3. The Contractor shall submit to the Contract Monitor for review and guidance by the State WIC Office any lease in excess of five years or any lease that has an expiration date after the end date of the contract with the State to administer a WIC Program.

4. Space that is not specifically leased as WIC clinic space and/or owned and/or operated by a WIC service provider is not subject to the above conditions.

### **3.2.1.2 Administrative/Fiscal Requirements**

1. The Contractor shall submit, no later than 30 days after receiving the Notice to Proceed, a line item budget for the period of September 23, 2013 to June 30, 2014 as specified in the WIC Local Agency Budget Package Instructions (Attachment W) and annually thereafter in accordance with the WIC Local Agency Budget Package Instructions.
2. The Contractor shall receive payment for budgeted items only as specified in the WIC Local Agency Budget Package Instructions (Attachment W) or for additional items with prior approval of the State WIC Agency. All funds not used by the Contractor will revert to the State WIC Agency.
3. This Contract may be modified, subject to required State approvals, to increase or decrease the caseload assignment of participants to a number mutually agreed upon between the WIC Agency and the Contractor based on actual participation. Funding for any such increase in participant caseload will be adjusted in accordance with COMAR 10.54.02.18. If caseload is decreased, funding will be decreased accordingly for the remaining months in the budget period.
4. Beginning six months after the initiation of providing WIC services, the Contractor must meet 97% of the assigned caseload. If the number of persons participating is less than 97%, the State WIC Office may decrease the caseload and appropriate funding as outlined in the previous paragraph.

### **3.2.1.3 Conditions of Award**

The Contractor who is awarded a Contract as a result of this RFP shall agree to the Conditions of Award as listed in Attachment V.

## **3.3 Security Requirements**

### **3.3.1 Employee Identification**

- (a) Each person who is an employee or agent of the Contractor or subcontractor shall display his or her company ID badge at all times while on State premises. Upon request of authorized State personnel, each such employee or agent shall provide additional photo identification.
- (b) At all times at any facility, the Contractor's personnel shall cooperate with State site requirements that include but are not limited to being prepared to be escorted at all times, providing information for badge issuance, and wearing the badge in a visible location at all times.

### **3.3.2 Information Technology**

- (a) Contractors shall comply with and adhere to the State IT Security Policy and Standards. These policies may be revised from time to time and the Contractor shall comply with all such revisions. Updated and revised versions of the State IT Policy and Standards are available online at: [www.doit.maryland.gov](http://www.doit.maryland.gov) – keyword: Security Policy.
- (b) The Contractor shall not connect any of its own equipment to a State LAN/WAN without prior written approval by the State. The Contractor shall complete any necessary paperwork as directed and coordinated with the Contract Monitor to obtain approval by the State to connect Contractor-owned equipment to a State LAN/WAN.

### 3.3.3 Criminal Background Check

The Contractor shall obtain from each prospective employee a signed statement permitting a criminal background check. The Contractor shall secure at its own expense a Maryland State Police and/or FBI background check and shall provide the Contract Monitor with completed checks on all new employees prior to assignment. The Contractor may not assign an employee with a criminal record unless prior written approval is obtained from the Contract Monitor.

## 3.4 Insurance Requirements

- 3.4.1 The Contractor shall maintain Commercial General Liability Insurance with limits sufficient to cover losses resulting from, or arising out of, Contractor action or inaction in the performance of the Contract by the Contractor, its agents, servants, employees, or subcontractors, but no less than a Combined Single Limit for Bodily Injury, Property Damage, and Personal and Advertising Injury Liability of \$1,000,000 per occurrence and \$3,000,000 aggregate.
- 3.4.2 The Contractor shall maintain Errors and Omissions/Professional Liability insurance with minimum limits of \$3,000,000 per occurrence.
- 3.4.3 The Contractor shall maintain Automobile and/or Commercial Truck Insurance as appropriate with Liability, Collision, and PIP limits no less than those required by the State where the vehicle(s) is registered but in no case less than those required by the State of Maryland.
- 3.4.4 The Contractor shall maintain Employee Theft Insurance with minimum limits of \$1,000,000 per occurrence.
- 3.4.5 Within five (5) Business Days of execution of a Contract with the State, the Contractor shall provide the Contract Monitor with current certificates of insurance, and shall update such certificates from time to time but no less than annually in multi-year contracts, as directed by the Contract Monitor. Such copy of the Contractor's current certificate of insurance shall contain at minimum the following:
- a. Workers' Compensation – The Contractor shall maintain such insurance as necessary and/or as required under Workers' Compensation Acts, the Longshore and Harbor Workers' Compensation Act, and the Federal Employers' Liability Act.
  - b. Commercial General Liability as required in Section 3.4.1.
  - c. Errors and Omissions/Professional Liability as required in Section 3.4.2.
  - d. Automobile and/or Commercial Truck Insurance as required in Section 3.4.3.
  - e. Employee Theft Insurance as required in Section 3.4.4.
- 3.4.6 The State shall be named as an additional named insured on the policies with the exception of Worker's Compensation Insurance and Professional Liability Insurance. Certificates of insurance evidencing coverage shall be provided prior to the commencement of any activities in the Contract. All insurance policies shall be endorsed to include a clause that requires that the insurance carrier provide the Contract Monitor, by certified mail, not less than 45 days' advance notice of any non-renewal, cancellation, or expiration. In the event the Contract Monitor receives a notice of non-renewal, the Contractor shall provide the Contract Monitor with an insurance policy from another carrier at least 30 days prior to the expiration of the insurance policy then in effect. All insurance policies shall be with a company licensed by the State to do business and to provide such policies.

- 3.4.7 The Contractor shall require that any subcontractors providing services under this Contract obtain and maintain similar levels of insurance and shall provide the Contract Monitor with the same documentation as is required of the Contractor.

### **3.5 Problem Escalation Procedure**

- 3.5.1 The Contractor must provide and maintain a Problem Escalation Procedure (PEP) for both routine and emergency situations. The PEP must state how the Contractor will address problem situations as they occur during the performance of the Contract, especially problems that are not resolved to the satisfaction of the State within appropriate timeframes.

The Contractor shall provide contact information to the Contract Monitor, as well as to other State personnel, as directed should the Contract Monitor not be available.

- 3.5.2 The Contractor must provide the PEP no later than ten (10) Business Days after notice of Contract award or after the date of the Notice to Proceed, whichever is earlier. The PEP, including any revisions thereto, must also be provided within ten (10) Business Days after the start of each Contract year (and within ten (10) Business Days after any change in circumstance which changes the PEP). The PEP shall detail how problems with work under the Contract will be escalated in order to resolve any issues in a timely manner. The PEP shall include:

- The process for establishing the existence of a problem;
- The maximum duration that a problem may remain unresolved at each level in the Contractor's organization before automatically escalating the problem to a higher level for resolution;
- Circumstances in which the escalation will occur in less than the normal timeframe;
- The nature of feedback on resolution progress, including the frequency of feedback, to be provided to the State;
- Identification of, and contact information for, progressively higher levels of personnel in the Contractor's organization who would become involved in resolving a problem;
- Contact information for persons responsible for resolving issues after normal business hours (e.g., evenings, weekends, holidays, etc.) and on an emergency basis; and
- A process for updating and notifying the Contract Monitor of any changes to the PEP.

Nothing in this section shall be construed to limit any rights of the Contract Monitor or the State which may be allowed by the Contract or applicable law.

### **3.6 Invoicing**

#### **3.6.1 General**

- (a) All invoices for services shall be signed by the Contractor and submitted to:

Ms. Diane Aversa, Financial Officer  
Maryland State WIC Program  
201 West Preston Street, Room 104  
Baltimore, Maryland 21201

All invoices shall include the following information:

- Contractor name;
- Remittance address;

- Federal taxpayer identification number (or if sole proprietorship, the individual's social security number);
- Invoice period;
- Invoice date;
- Invoice number
- State assigned Contract number;
- State assigned (Blanket) Purchase Order number(s);
- Goods or services provided; and
- Amount due.

Invoices submitted without the required information cannot be processed for payment until the Contractor provides the required information.

- (b) The Department reserves the right to reduce or withhold Contract payment in the event the Contractor does not provide the Department with all required deliverables within the time frame specified in the Contract or in the event that the Contractor otherwise materially breaches the terms and conditions of the Contract until such time as the Contractor brings itself into full compliance with the Contract. Any action on the part of the Department, or dispute of action by the Contractor, shall be in accordance with the provisions of Md. Code Ann., State Finance and Procurement Article §§ 15-215 through 15-223 and with COMAR 21.10.02.

### 3.6.2 Invoice Submission Schedule

All invoices for services shall be signed by the Contractor and submitted to the Contract Monitor no later than the end of the month following the quarter in which services were provided.

1. The Contractor shall bill the Department monthly or quarterly as a reimbursement of expenditures reflected on the monthly or quarterly expenditure report.
2. The State WIC Agency shall pay the Contractor for allowable program costs (per 7 CFR Parts 3015 and 3016) upon the receipt of an invoice and the submission of monthly or quarterly expenditure reports. The invoice and expenditure reports must be submitted as specified in the Local Agency Budget Instructions (Attachment W) and are subject to the approval of the State WIC Agency prior to payment.

## 3.7 MBE Reports

If this solicitation includes a MBE Goal (see Section 1.33), the Contractor and its MBE subcontractors shall provide the following MBE Monthly Reports based upon the commitment to the goal:

- (a) **Attachment D-4**, the MBE Participation Prime Contractor Paid/Unpaid MBE Invoice Report by the 10th of the month following the reporting period to the Contract Monitor and the MBE Liaison Officer.
- (b) **Attachment D-5**, the MBE Participation Subcontractor Paid/Unpaid MBE Invoice Report by the 10th of the month following the reporting period to the Contract Monitor and the MBE Liaison Officer.

## 3.8 VSBE Reports

If this solicitation includes a VSBE Goal (see Section 1.41), the Contractor and its VSBE subcontractors shall provide the following VSBE Monthly Reports based upon the commitment to the goal:

- (a) **Attachment M-3**, the VSBE Participation Prime Contractor Paid/Unpaid VSBE Invoice Report by the 10th of the month following the reporting period to the Contract Monitor and the VSBE Liaison Officer.



- (b) **Attachment M-4**, the VSBE Participation Subcontractor Paid/Unpaid VSBE Invoice Report by the 10th of the month following the reporting period to the Contract Monitor and the VSBE Liaison Officer.

**The remainder of this page is intentionally left blank.**

## **SECTION 4 – PROPOSAL FORMAT**

### **4.1 One Part Submission**

Offerors shall submit a TECHNICAL PROPOSAL in response to this solicitation.

### **4.2 Proposals**

- 4.2.1 The Technical Proposal shall be submitted in a sealed package to the Procurement Officer (see Section 1.5 “Procurement Officer”) prior to the date and time for receipt of Proposals (see Section 1.11 “Proposals Due (Closing) Date and Time”).

The envelope shall contain an unbound original of the Technical Proposal, so identified, and 6 copies under one (1) label bearing:

- The RFP title and number,
- Name and address of the Offeror,
- Closing date and time for receipt of proposals

- 4.2.2 An electronic version (CD) of the Technical Proposal in Microsoft Word format must be enclosed with the original Technical Proposal. CDs must be labeled on the outside with the RFP title and number, name of the Offeror.
- 4.2.3 A second electronic version of the Technical Proposal in searchable Adobe .pdf format shall be submitted on CD for Public Information Act (PIA) requests. This copy shall be redacted so that confidential and/or proprietary information has been removed (see Section 1.14 “Public Information Act Notice”).
- 4.2.4 All pages of the Technical Proposal shall be consecutively numbered from beginning (Page 1) to end (Page “X”).
- 4.2.5 Proposals and any modifications to Proposals will be shown only to State employees, members of the Evaluation Committee, or other persons deemed by the Department to have a legitimate interest in them.

### **4.3 Delivery**

- 4.1.1 Offerors may either mail or hand-deliver Proposals. For U.S. Postal Service deliveries, any Proposal that has been received at the appropriate mailroom, or typical place of mail receipt, for the respective procuring unit by the time and date listed in the RFP will be deemed to be timely. If an Offeror chooses to use the U.S. Postal Service for delivery, the Department recommends that it use Express Mail, Priority Mail, or Certified Mail only as these are the only forms for which both the date and time of receipt can be verified by the Department. An Offeror using first class mail will not be able to prove a timely delivery at the mailroom and it could take several days for an item sent by first class mail to make its way by normal internal mail to the procuring unit.
- 4.1.2 Hand-delivery includes delivery by commercial carrier acting as agent for the Offeror. For any type of direct (non-mail) delivery, Offerors are advised to secure a dated, signed, and time-stamped (or otherwise indicated) receipt of delivery.

- 4.1.3 After receipt, a Register of Proposals will be prepared that identifies each Offeror. The Register of Proposals will be open to inspection only after the Procurement Officer makes a determination recommending the award of the Contract.

## **4.4 Technical Proposal**

### **4.4.1 Format of Technical Proposal**

Inside a sealed package described in Section 4.2 “Proposals,” the unbound original, six (6) copies, and the electronic version shall be provided. The RFP sections are numbered for ease of reference. Section 4.4.3 sets forth the order of information to be provided in the Technical Proposal, e.g., Section 4.4.3.1 “Title and Table of Contents,” Section 4.4.3.2 “Claim of Confidentiality,” Section 4.4.3.3 “Transmittal Letter,” Section 4.4.3.4 “Executive Summary,” etc. In addition to the instructions below, responses in the Offeror’s Technical Proposal should reference the organization and numbering of Sections in the RFP (ex. “Section 3.2.1 Response . . . ; “Section 3.2.2 Response . . . ,” etc.). This proposal organization will allow State officials and the Evaluation Committee to “map” Offeror responses directly to RFP requirements by Section number and will aid in the evaluation process.

### **4.4.2 Additional Required Technical Submissions**

**4.4.2.1** The following documents shall be completed, signed, and included in the Technical Proposal; each in its own section that follows the material submitted in response to Section 4.4.3.

- a. Completed Bid/Proposal Affidavit (**Attachment B**).
- c. Completed Maryland Living Wage Requirements Affidavit (**Attachment G-1**).
- d. Completed Certification of Investment Activities in Iran (**Attachment N**).

**4.4.2.2** **\*If Required**, the following documents shall be completed, signed, and included in the Technical Proposal; each in its own section that follows the material submitted in response to Section 4.4.3.  
\*See appropriate RFP Section to determine whether the Attachment is required for this procurement:

- a. Completed MDOT Certified MBE Utilization and Fair Solicitation Affidavit (**Attachment D1**) **\*see Section 1.33**. This attachment must be provided in a separately sealed envelope within the main Technical Proposal package/envelope.
- b. Completed Federal Funds Attachment (**Attachment H**) **\*see Section 1.35**.
- c. Completed Conflict of Interest Affidavit and Disclosure (**Attachment I**) **\*see Section 1.36**.
- d. Completed Mercury Affidavit (**Attachment L**) **\*see Section 1.40**.
- e. Completed Veteran-Owned Small Business Enterprise (VSBE) Utilization Affidavit and Subcontractor Participation Schedule. (**Attachment M-1**) **\*see Section 1.41**. This attachment must be provided in a separately sealed envelope within the main Technical Proposal package/envelope.
- f. Completed Location of the Performance of Services Disclosure (**Attachment O**) **\*see Section 1.44**.

**4.4.3 The Technical Proposal** shall include the following documents and information in the order specified as follows:

#### **4.4.3.1 Title Page and Table of Contents**

The Technical Proposal should begin with a Title Page bearing the name and address of the Offeror and the name and number of this RFP. A Table of Contents shall follow the Title Page for the Technical Proposal, organized by section, subsection, and page number.

#### **4.4.3.2 Claim of Confidentiality**

Any information which is claimed to be confidential is to be noted by reference and included after the Title Page and before the Table of Contents. An explanation for each claim of confidentiality shall be included (see Section 1.14 “Public Information Act Notice”).

#### **4.4.3.3 Transmittal Letter**

A Transmittal Letter shall accompany the Technical Proposal. The purpose of this letter is to transmit the Proposal and acknowledge the receipt of any addenda. The Transmittal Letter should be brief and signed by an individual who is authorized to commit the Offeror to the services and requirements as stated in this RFP. The Transmittal Letter should include the following:

- Name & address of Offeror;
- Name, title, email address, and telephone number of Primary Contact for Offeror;
- Solicitation Title and Solicitation Number that Proposal is in response to;
- Signature, typed name, and title of an individual authorized to commit Offeror to its Proposal;
- Federal Employer Identification Number (FEIN) of the Offeror, or if a single individual, their Social Security Number (SSN);
- Offeror’s eMM number;
- Offeror’s MBE certification number (if applicable);
- Acceptance of all State RFP and Contract terms and conditions (see Section 1.24); if any exceptions are taken, they are to be noted in the Executive Summary (see Section 4.4.3.4); and
- Acknowledgement of all addenda to this RFP.

#### **4.4.3.4 Executive Summary**

The Offeror shall condense and highlight the contents of the technical proposal in a separate section titled “Executive Summary.” The Summary should identify the Service Category(ies) and Region(s) the Offeror is proposing to provide services for (if applicable). The Summary shall also identify any exceptions the Offeror has taken to the requirements of this RFP, the Contract (Attachment A), or any other attachments. Exceptions to terms and conditions may result in having the proposal deemed unacceptable or classified as not reasonably susceptible of being selected for award.

If the Offeror has taken no exceptions to the requirements of this RFP, the Executive Summary shall so state.

#### **4.4.3.5 Minimum Qualifications Documentation:**

The Offeror shall submit any Minimum Qualifications documentation that may be required, as set forth in Section 2 “Offeror Minimum Qualifications.”

#### **4.4.3.6 Offeror Technical Response to RFP Requirements and Proposed Work Plan**

- a. The Offeror shall address each Scope of Work requirement (Section 3.2) in its Technical Proposal and describe how its proposed services will meet or exceed the requirement(s). If the State is seeking Offeror agreement to any requirement(s), the Offeror shall state its agreement or disagreement. Any paragraph in the Technical Proposal that responds to a Scope of Work (Section 3.2) requirement shall include an explanation of how the work will be done. Any exception to a requirement, term, or condition may result in having the Proposal classified as not reasonably susceptible of being selected for award or the Offeror deemed not responsible.

- b. The Offeror shall give a definitive description of the proposed plan to meet the requirements of the RFP, i.e., a Work Plan. It shall include the specific methodology and techniques to be used by the Offeror in providing the required services as outlined in RFP Section 3, Scope of Work. The description shall include an outline of the overall management concepts employed by the Offeror and a project management plan, including project control mechanisms and overall timelines. Project deadlines considered contract deliverables must be recognized in the Work Plan.
- c. The Offeror shall identify the location(s) in which it proposes to provide the services, including, if applicable, any current facilities that it operates, and any required construction to satisfy the State's requirements as outlined in this RFP.
- d. The Offeror must provide a draft Problem Escalation Procedure (PEP) that includes, at a minimum, titles of individuals to be contacted by the Department's Contract Monitor should problems arise under the Contract and explain how problems with work under the Contract will be escalated in order to resolve any issues in a timely manner. Final procedures must be submitted as indicated in RFP Section 3.5.
- e. The offeror shall submit a sample budget for an estimated annual award of \$980,400.00 for serving 5,200 WIC participants. The Offeror shall use Attachment T - Local Agency Budget Instructions in preparing the following budget pages: Program Budget (4542A), Schedule of Salary Costs (4542D), and Schedule of Special Payments Payroll Costs (4542E). The sample budget will be used to evaluate the Offeror's understanding of the type of expenditures required to administer a WIC Program.

#### **4.4.3.7 Experience and Qualifications of Proposed Staff**

The Offeror shall identify the number and types of staff proposed to be utilized under the Contract.

The Offeror shall describe in detail how the proposed staff's experience and qualifications relate to their specific responsibilities, as detailed in the Work Plan. The Offeror shall include individual resumes for the key personnel who are to be assigned to the project if the Offeror is awarded the contract. Each resume should include the amount of experience the individual has had relative to the Scope of Work set forth in this solicitation. Letters of intended commitment to work on the project, including any proposed subcontractors, shall be included in this section.

The Offeror is required to provide an Organizational Chart outlining personnel and their related duties. The Offeror shall include job titles and the percentage of time each individual will spend on his/her assigned tasks. Offerors using job titles other than those commonly used by industry standards must provide a crosswalk reference document.

#### **4.4.3.8 Corporate Qualifications and Capabilities**

The Offeror shall include information on past corporate experience with similar projects and/or services. The Offeror shall describe how its organization can meet the requirements of this RFP and shall also include the following information:

- a. The number of years the Offeror has provided the similar services;
- b. The number of clients/customers and geographic locations that the Offeror currently serves;
- c. The names and titles of key management personnel who will be directly involved with supervising the services to be performed under this Contract;

- d. The Offeror shall also describe how it is configured managerially, financially, and individually so as to afford the assurance that it can execute a contract successfully;
- e. The Offeror's process for resolving billing errors; and
- f. A corporate organizational chart that identifies the complete structure of the company including any parent company, headquarters, regional offices, and subsidiaries of the Offeror.

#### **4.4.3.9 References**

At least three (3) references are requested from customers who are capable of documenting the Offeror's ability to provide the services specified in this RFP. References used to meet any Offeror Minimum Qualifications (see Section 2) may be used to meet this request. Each reference shall be from a client for whom the Offeror has provided services within the past five (5) years and shall include the following information:

- a. Name of client organization;
- b. Name, title, telephone number, and e-mail address, if available, of point of contact for client organization; and
- c. Value, type, duration, and description of services provided.

The Department reserves the right to request additional references or utilize references not provided by an Offeror.

#### **4.4.3.10 List of Current or Prior State Contracts:**

Provide a list of all contracts with any entity of the State of Maryland for which the Offeror is currently performing services or for which services have been completed within the last five (5) years. For each identified contract, the Offeror is to provide:

- a. The State contracting entity;
- b. A brief description of the services/goods provided;
- c. The dollar value of the contract;
- d. The term of the contract;
- e. The State employee contact person (name, title, telephone number, and, if possible, e-mail address); and
- f. Whether the contract was terminated before the end of the term specified in the original contract, including whether any available renewal option was not exercised.

Information obtained regarding the Offeror's level of performance on State contracts will be used by the Procurement Officer to determine the responsibility of the Offeror and considered as part of the experience and past performance evaluation criteria of the RFP.

#### **4.4.3.11 Financial Capability**

An Offeror must include in its Proposal a commonly-accepted method to prove its fiscal integrity. The Offeror shall include Financial Statements, preferably a Profit and Loss (P&L) and a Balance Sheet, for the last two (2) years (independently audited preferred).

In addition, the Offeror may supplement its response to this Section by including one or more of the following with its response:

- a. Dunn and Bradstreet Rating;
- b. Standard and Poor's Rating;

- c. Lines of credit;
- d. Evidence of a successful financial track record; and
- e. Evidence of adequate working capital.

#### **4.4.3.12 Certificate of Insurance:**

The Offeror shall provide a copy of the Offeror's current certificate of insurance with the prescribed limits set forth in Section 3.4 "Insurance Requirements." The recommended awardee must provide a certificate of insurance naming the State as an additional insured, if required, within five (5) Business Days from notification by the Procurement Officer that the Offeror has been determined to be the apparent awardee.

#### **4.4.3.13 Subcontractors:**

The Offeror shall provide a complete list of all subcontractors that will work on the Contract if the Offeror receives an award, including those utilized in meeting the MBE and/or VSBE subcontracting goal, if applicable. This list shall include a full description of the duties each subcontractor will perform and why/how each subcontractor was deemed the most qualified for this project.

#### **4.4.3.14 Legal Action Summary:**

This summary shall include:

- a. A statement as to whether there are any outstanding legal actions or potential claims against the Bidder and a brief description of any action;
- b. A brief description of any settled or closed legal actions or claims against the Bidder over the past five (5) years;
- c. A description of any judgments against the Bidder within the past five (5) years, including the case name, number court, and what the final ruling or determination was from the court; and
- d. In instances where litigation is on-going and the Bidder has been directed not to disclose information by the court, provide the name of the judge and location of the court.

#### **4.4.3.15 Economic Benefit Factors**

The Offeror shall submit with its Proposal a narrative describing benefits that will accrue to the Maryland economy as a direct or indirect result of its performance of this contract. Proposals will be evaluated to assess the benefit to Maryland's economy specifically offered.

Proposals that identify specific benefits as being contractually enforceable commitments will be rated more favorably than proposals that do not identify specific benefits as contractual commitments, all other factors being equal.

Offerors shall identify any performance guarantees that will be enforceable by the State if the full level of promised benefit is not achieved during the contract term.

As applicable, for the full duration of the contract, including any renewal period, or until the commitment is satisfied, the contractor shall provide to the procurement officer or other designated agency personnel reports of the actual attainment of each benefit listed in response to this section. These benefit attainment reports shall be provided quarterly, unless elsewhere in these specifications a different reporting frequency is stated.

Please note that in responding to this section, the following do not generally constitute economic benefits to be derived from this contract:

- a. generic statements that the State will benefit from the Offeror's superior performance under the contract;
- b. descriptions of the number of Offeror employees located in Maryland other than those that will be performing work under this contract; or
- c. tax revenues from Maryland based employees or locations, other than those that will be performing, or used to perform, work under this contract.

Discussion of Maryland-based employees or locations may be appropriate if the Offeror makes some projection or guarantee of increased or retained presence based upon being awarded this contract.

Examples of economic benefits to be derived from a contract may include any of the following. For each factor identified below, identify the specific benefit and contractual commitments and provide a breakdown of expenditures in that category:

- The contract dollars to be recycled into Maryland's economy in support of the contract, through the use of Maryland subcontractors, suppliers and joint venture partners. Do not include actual fees or rates paid to subcontractors or information from your financial proposal;
- The number and types of jobs for Maryland residents resulting from the contract. Indicate job classifications, number of employees in each classification and the aggregate payroll to which the contractor has committed, including contractual commitments at both prime and, if applicable, subcontract levels. If no new positions or subcontracts are anticipated as a result of this Contract, so state explicitly;
- Tax revenues to be generated for Maryland and its political subdivisions as a result of the contract. Indicate tax category (sales taxes, payroll taxes, inventory taxes and estimated personal income taxes for new employees). Provide a forecast of the total tax revenues resulting from the contract;
- Subcontract dollars committed to Maryland small businesses and MBEs; and
- Other benefits to the Maryland economy which the Offeror promises will result from awarding the contract to the Offeror, including contractual commitments. Describe the benefit, its value to the Maryland economy, and how it will result from, or because of the contract award. Offerors may commit to benefits that are not directly attributable to the contract, but for which the contract award may serve as a catalyst or impetus.

#### **4.4.3.16 Availability of Health Services**

The Offeror shall indicate which of the following descriptions best identifies their agency and the health services they are able to provide. If none of the descriptions best identifies the Offeror's agency, please respond "None of the descriptions best identifies the Offeror's agency."

- a. First consideration shall be given to a public or a private nonprofit health agency that will provide ongoing, routine pediatric and obstetric care and administrative services.
- b. Second consideration shall be given to a public or private nonprofit health or human service agency that will enter into a written agreement with another agency for either ongoing, routine pediatric and obstetric care or administrative services.
- c. Third consideration shall be given to a public or private nonprofit health agency that will enter into a written agreement with private physicians licensed by the State in order to provide ongoing, routine pediatric and obstetric care to a specific category of participants (women, infants, or children).



- d. Fourth consideration shall be given to a public or private nonprofit human services agency that will enter into a written agreement with private physicians licensed by the State to provide ongoing, routine pediatric and obstetric care.
- e. Fifth consideration shall be given to a public or private nonprofit health or human services agency that will provide ongoing, routine pediatric and obstetric care through referral to a health care provider.

#### **4.5 Financial Proposal**

The Contractor will be paid for services from the Federal WIC Program sources in accordance with USDA regulations. The payment will therefore be the same regardless of which Offeror is selected for award, and the award recommendation will be based solely upon the Offeror's overall technical ranking. The State WIC Agency will fund the Contractor an estimated total, not-to-exceed, \$5,761,100 for the period of five years based on the assigned caseload to be served and the base funding in accordance with COMAR 10.54.02.18 and subject to the availability of Federal funds. This funding is based on an initial caseload of 5,200 participants and the WIC funding amounts presently in effect as specified above. Additional funding may be available during the Contract period from the USDA for special initiative projects such as Breastfeeding Promotion, Peer Counselors and obesity prevention programs.

The State WIC Agency will be funding WIC services for 5,200 participants. Actual payments to the Contractor shall be based upon the assigned caseload served and the base funding and the payments per participant in accordance with COMAR 10.54.02.18, which may change throughout the Contract term.

Within 30 days following the start date of the Contract, the contractor must submit a final budget package utilizing the amount shown in the letter of grant award. The award amount is made in accordance with COMAR 10.54.02.18.

## **SECTION 5 – EVALUATION COMMITTEE, EVALUATION CRITERIA, AND SELECTION PROCEDURE**

### **5.1 Evaluation Committee**

Evaluation of proposals will be conducted by a committee established for that purpose and based on the criteria set forth below. The committee may obtain assistance with its evaluation from any appropriate source.

### **5.2 Technical Proposal Evaluation Criteria**

The criteria to be used to evaluate each Technical Proposal are listed below in descending order of importance. Unless stated otherwise, any subcriteria within each criterion have equal weight.

#### **5.2.1 Corporate Qualifications and Capabilities (See RFP § 4.4.3.8)**

- a. What is the Offeror's relative availability of health services in accordance with Federal Regulations 7 CFR §246.5 (3)(d)?

The Federal WIC Consolidated Regulations 7 CFR §246.5 (3)(d) established standards for the selection of a new local agency based on the Offeror's relative availability of health services. In accordance with these regulations, the State Agency will consider the following priority system in evaluating Offerors' proposals:

1. First consideration shall be given to a public or a private nonprofit health agency that will provide ongoing, routine pediatric and obstetric care and administrative services.
  2. Second consideration shall be given to a public or private nonprofit health or human service agency that will enter into a written agreement with another agency for either ongoing, routine pediatric and obstetric care or administrative services.
  3. Third consideration shall be given to a public or private nonprofit health agency that will enter into a written agreement with private physicians licensed by the State in order to provide ongoing, routine pediatric and obstetric care to a specific category of participants (women, infants, or children).
  4. Fourth consideration shall be given to a public or private nonprofit human services agency that will enter into a written agreement with private physicians licensed by the State to provide ongoing, routine pediatric and obstetric care.
  5. Fifth consideration shall be given to a public or private nonprofit health or human services agency that will provide ongoing, routine pediatric and obstetric care through referral to a health care provider.
- b. To what extent has the organization demonstrated a commitment to providing quality services?
  - c. Based on the description given in its Proposal, what are the overall capabilities of the Offeror relative to the requirements set forth in the RFP, e.g., size and type of staff, finances, experience, etc?
  - d. Are there any conflicts of interest, financial issues, or legal issues that need to be resolved?
  - e. Are the proposed clinics, alternate clinic sites and administrative office(s) appropriately sized to accommodate staff, applicants, and participants?

- f. Are the proposed clinics and alternate clinic sites accessible to applicants and participants by public transportation and located in areas of potentially WIC-eligible population?
- g. Are the proposed clinics, alternate clinic sites and administrative office(s) appropriately sized for the required equipment that will be used to provide WIC Program services?
- h. What has been the experience of other State agencies when contracting and working with the Offeror?

#### 5.2.2 Experience and Qualifications of Proposed Staff (See RFP § 4.4.3.7)

- a. How well are the named individuals properly matched to the job functions as described in the Scope of the Work with respect to their past work experience and credentials?
- b. How much actual experience does each staff person have that is applicable to providing the services as described in this RFP?
- c. Is the proposed staffing pattern adequate to provide the services to be performed as stated in the RFP?
- d. To what extent would the proposed staffing submitted by the Offeror succeed in meeting the services to be performed as stated in the scope of the work?

#### 5.2.3. Offeror's Technical Response to RFP Requirements and Work Plan (See RFP § 4.4.3.6)

- a. To what extent does the proposed work plan succeed in meeting the requirements of providing quality services by the appropriate classification of staff within the time frames to increase and/or maintain the assigned number of participants?
- b. Is there a project management plan that includes initial and on-going staff training, and monitoring of staff to determine compliance to the requirements in the RFP? How sound is the plan?
- c. How will problems with staff performance be addressed to resolve any issues in a timely manner?
- d. Do the line items and amounts in the sample budget clearly illustrate the Offeror's understanding of the type of expenditures required to administer a WIC Program?

The State prefers an Offeror's response to work requirements in the RFP that illustrates a comprehensive understanding of work requirements and mastery of the subject matter, including an explanation of how the work will be done. Responses to work requirements such as "concur" or "will comply" will receive a lower ranking than those Offerors who demonstrate they understand a work requirement and have a plan to meet or exceed it.

#### 5.2.4 Subcontractors (see RFP § 4.4.3.13)

#### 5.2.5 Economic Benefit to State of Maryland (See RFP § 4.4.3.15)

### 5.3 Financial Criteria

There is no Financial Proposal required for this RFP, and no Financial Criteria are part of the evaluation of Proposals. See RFP Section 4.5.

### 5.4 Reciprocal Preference

Although Maryland law does not authorize procuring agencies to favor resident Offerors in awarding procurement contracts, many other states do grant their resident businesses preferences over Maryland contractors. Therefore, COMAR 21.05.01.04 requires that procuring units apply a reciprocal preference under the following conditions:

- The most advantageous offer is from a responsible Offeror whose headquarters, principal base of operations, or principal site (that will primarily provide the services required under this RFP) is in another state.
- The other state gives a preference to its resident businesses through law, policy, or practice; and

- The preference does not conflict with a Federal law or grant affecting the procurement Contract.

The preference given shall be identical to the preference that the other state, through law, policy, or practice gives to its resident businesses.

## **5.5 Selection Procedures**

### **5.5.1 General**

The Contract will be awarded in accordance with the Competitive Sealed Proposals (CSP) method found at COMAR 21.05.03. The Competitive Sealed Proposals method allows for the conducting of discussions and the revision of proposals during these discussions. Therefore, the State may conduct discussions with all Offerors that have submitted Proposals that are determined to be reasonably susceptible of being selected for contract award or potentially so. However, the State reserves the right to make an award without holding discussions.

In either case (i.e., with or without discussions), the State may determine an Offeror to be not responsible and/or an Offeror's proposal to be not reasonably susceptible of being selected for award at any time after the initial closing date for receipt of proposals and prior to Contract award.

### **5.5.2 Selection Process Sequence**

5.5.2.1 A determination is made that the MDOT Certified MBE Utilization and Fair Solicitation Affidavit (**Attachment D-1**) is included and is properly completed, if there is a MBE goal. In addition, a determination is made that the Veteran-Owned Small Business Enterprise (VSBE) Utilization Affidavit and Subcontractor Participation Schedule. (**Attachment M-1**) is included and is properly completed, if there is a VSBE goal.

5.5.2.2 Technical Proposals are evaluated for technical merit and ranked. During this review, oral presentations and discussions may be held. The purpose of such discussions will be to assure a full understanding of the State's requirements and the Offeror's ability to perform the services, as well as to facilitate arrival at a Contract that is most advantageous to the State. Offerors will be contacted by the State as soon as any discussions are scheduled.

5.5.2.3 Offerors must confirm in writing any substantive oral clarifications of, or changes in, their Technical Proposals made in the course of discussions. Any such written clarifications or changes then become part of the Offeror's Technical Proposal. Proposals are given a final review and ranked.

### **5.5.3 Award Determination**

Upon completion of the Technical Proposal evaluations and rankings, each Offeror will receive an overall ranking. The Procurement Officer will recommend award of the Contract to the responsible Offeror that submitted the Proposal determined to be the most advantageous to the State.

## **5.6 Documents required upon Notice of Recommendation for Contract Award**

Upon receipt of a Notification of Recommendation for Contract Award, the following documents shall be completed and submitted by the recommended awardee within five (5) Business Days, unless noted otherwise. Submit three (3) copies of each with original signatures:

- a. signed Contract (**Attachment A**),
- b. completed Contract Affidavit (**Attachment C**),

- c. completed MBE **Attachments D-2 and D-3**, within ten (10) Working Days, if applicable; **\*see Section 1.33**,
- d. completed MBE **Attachment D-6** if a waiver has been requested, within ten (10) Working Days, if applicable; **\*see Section 1.33**,
- e. signed Non-Disclosure Agreement (**Attachment J**), if applicable; **\*see Section 1.37**,
- f. signed HIPAA Business Associate Agreement (**Attachment K**), if applicable; **\*see Section 1.38**,
- g. completed VSBE **Attachments M-2 and M-3**, if applicable **\*see Section 1.41**,
- h. completed DHR Hiring Agreement, **Attachment P**, if applicable **\*see Section 1.45**, and
- i. copy of a current Certificate of Insurance with the prescribed limits set forth in Section 3.4 “Insurance Requirements,” naming the State as an additional insured, if applicable; **\*see Section 3.4**.

**The remainder of this page is intentionally left blank.**

## **RFP ATTACHMENTS**

### **ATTACHMENT A – Contract**

This is the sample contract used by the Department. It is provided with the RFP for informational purposes and is not required to be submitted at Proposal submission time. Upon notification of recommendation for award, a completed contract will be sent to the recommended awardee for signature. The recommended awardee must return to the Procurement Officer three (3) executed copies of the Contract within five (5) Business Days after receipt. Upon Contract award, a fully-executed copy will be sent to the Contractor.

### **ATTACHMENT B – Bid/Proposal Affidavit**

This Attachment must be completed and submitted with the Technical Proposal.

### **ATTACHMENT C – Contract Affidavit**

This Attachment must be completed and submitted by the recommended awardee to the Procurement Officer within five (5) Business Days of receiving notification of recommendation for award.

### **ATTACHMENT D – Minority Business Enterprise Forms**

If required (see Section 1.33), these Attachments include the MBE subcontracting goal statement, instructions, and MBE Attachments D-1 through D-6. Attachment D-1 must be properly completed and submitted with the Offeror's Technical Proposal or the Proposal will be deemed not reasonably susceptible of being selected for award and rejected. Within 10 Working Days of receiving notification of recommendation for Contract award, the Offeror must submit Attachments D-2 and D-3 and, if the Offeror has requested a waiver of the MBE goal, Attachment D-6.

### **ATTACHMENT E – Pre-Proposal Conference Response Form**

It is requested that this form be completed and submitted as described in Section 1.7 by those potential Offerors that plan on attending the Pre-Proposal Conference.

### **ATTACHMENT F – Financial Proposal Instructions and Form**

There is no Financial Proposal required for this RFP, and no Financial Criteria are part of the evaluation of Proposals. See RFP Section 4.5.

### **ATTACHMENT G – Maryland Living Wage Requirements for Service Contracts and Affidavit of Agreement**

Attachment G-1 Living Wage Affidavit must be completed and submitted with the Technical Proposal.

### **ATTACHMENT H – Federal Funds Attachment**

If required (see Section 1.35), these Attachments must be completed and submitted with the Technical Proposal as instructed in the Attachments.

### **ATTACHMENT I – Conflict of Interest Affidavit and Disclosure**

If required (see Section 1.36), this Attachment must be completed and submitted with the Technical Proposal.

### **ATTACHMENT J – Non-Disclosure Agreement**

If required (see Section 1.37), this Attachment must be completed and submitted within five (5) Business Days of receiving notification of recommendation for award. However, to expedite processing, it is suggested that this document be completed and submitted with the Technical Proposal.

### **ATTACHMENT K – HIPAA Business Associate Agreement**

If required (see Section 1.38), this Attachment is to be completed and submitted within five (5) Business Days of receiving notification of recommendation for award. However, to expedite processing, it is suggested that this document be completed and submitted with the Technical Proposal.

### **ATTACHMENT L – Mercury Affidavit**

If required (see Section 1.40), this Attachment must be completed and submitted with the Technical Proposal.

**ATTACHMENT M – Veteran-Owned Small Business Enterprise Forms**

If required (see Section 1.41), these Attachments include the VSBE Attachments M-1 through M-4. Attachment M-1 must be completed and submitted with the Technical Proposal. Attachment M-2 is required to be submitted within ten (10) Business Days of receiving notification of recommendation for award.

**ATTACHMENT N – Certification of Investment Activities in Iran**

This Attachment must be completed and submitted with the Technical Proposal.

**ATTACHMENT O – Location of the Performance of Services Disclosure**

If required (see Section 1.44), this Attachment must be completed and submitted with the Technical Proposal.

**ATTACHMENT P – Department of Human Resources (DHR) Hiring Agreement**

If required (see Section 1.45), this Attachment is to be completed and submitted within five (5) Business Days of receiving notification of recommendation for award.

**ATTACHMENT Q – WIC Program Regulations**

Provided with the RFP for informational purposes.

**ATTACHMENT R – Local Agency Procedures Manual**

Provided with the RFP for informational purposes.

**ATTACHMENT S – Prince George’s County WIC Clinics**

Provided with the RFP for informational purposes.

**ATTACHMENT T – Prince George’s County Zip Codes**

Provided with the RFP for informational purposes.

**ATTACHMENT U – WIC Clinic Prototype Plans**

Provided with the RFP for informational purposes.

**ATTACHMENT V – Conditions of Award**

Provided with the RFP for informational purposes.

**ATTACHMENT W – Local Agency Budget Package Instructions**

Provided with the RFP for informational purposes.

## ATTACHMENT A – CONTRACT

### Women, Infants, and Children (WIC) Program Local Agency for Targeted Areas in Prince Georges County

THIS CONTRACT (the “Contract”) is made this (“X<sup>th</sup>”) day of (month), (year) by and between (Contractor’s name) and the STATE OF MARYLAND, acting through the DEPARTMENT OF HEALTH AND MENTAL HYGIENE, OFFICE OF PROCUREMENT AND SUPPORT SERVICES.

In consideration of the promises and the covenants herein contained, the parties agree as follows:

#### 1. Definitions

In this Contract, the following words have the meanings indicated:

- 1.1 “COMAR” means Code of Maryland Regulations.
- 1.2 “Contract Monitor” means the Department employee identified in Section 1.6 of the RFP as the Contract Monitor.
- 1.3 “Contractor” means (Contractor’s name) whose principal business address is (Contractor’s primary address) and whose principal office in Maryland is (Contractor’s local address).
- 1.4 “Department” means the Maryland Department of Health and Mental Hygiene and any of its Agencies, Offices, Administrations, Facilities, or Commissions.
- 1.5 “Procurement Officer” means the Department employee identified in Section 1.5 of the RFP as the Procurement Officer.
- 1.6 “RFP” means the Request for Proposals for (solicitation title) Solicitation # DHMH OPASS (solicitation number), and any addenda thereto issued in writing by the State.
- 1.7 “State” means the State of Maryland.
- 1.8 “Technical Proposal” means the Contractor’s Technical Proposal dated (Technical Proposal date).

#### 2. Scope of Contract

- 2.1 The Contractor shall provide deliverables, programs, goods, and services specific to the Contract awarded in accordance with Exhibits A-C listed in this section and incorporated as part of this Contract. If there is any conflict between this Contract and the Exhibits, the terms of the Contract shall govern. If there is any conflict among the Exhibits, the following order of precedence shall determine the prevailing provision:

Exhibit A – The RFP

Exhibit B – State Contract Affidavit, executed by the Contractor and dated (date of Attachment C)

Exhibit C – The Proposal

- 2.2 The Procurement Officer may, at any time, by written order, make changes in the work within the general scope of the Contract or the RFP. No other order, statement, or conduct of the Procurement Officer or any other person shall be treated as a change or entitle the Contractor to an equitable adjustment under this section. Except as otherwise provided in this Contract, if any change under this section causes an increase or decrease in the Contractor’s cost of, or the time required for, the performance of any part of the work, whether or not changed by the order, an equitable adjustment in the Contract price shall be made and the Contract modified in writing accordingly. The Contractor must assert in writing its right to an adjustment under this



section within thirty (30) days of receipt of written change order and shall include a written statement setting forth the nature and cost of such claim. No claim by the Contractor shall be allowed if asserted after final payment under this Contract. Failure to agree to an adjustment under this section shall be a dispute under the Disputes clause. Nothing in this section shall excuse the Contractor from proceeding with the Contract as changed.

- 2.3 While the Procurement Officer may, at any time, by written change order, make unilateral changes in the work within the general scope of the Contract as provided in Section 2.2 above, the Contract may be modified by mutual agreement of the parties, provided: (a) the modification is made in writing; (b) all parties sign the modification; and (c) all approvals by the required agencies as described in COMAR Title 21, are obtained.

### **3. Period of Performance.**

- 3.1 The Contract resulting from this RFP shall be for a period of approximately 5 years beginning on or about September 23, 2013 and ending on September 22, 2018. The term of this Contract begins on the date the Contract is signed by the Department following approval of the Board of Public Works, if such approval is required. The Contractor shall provide services under this Contract upon receipt of official notification of award and a written Notice to Proceed issued by the Procurement Officer.
- 3.2 Audit, confidentiality, document retention, and indemnification obligations under this Contract shall survive expiration or termination of the Contract.

### **4. Consideration and Payment**

- 4.1 In consideration of the satisfactory performance of the work set forth in this Contract, the Department shall pay the Contractor in accordance with the terms of this Contract and RFP. Unless properly modified (see above Section 2.3), payment to the Contractor pursuant to this Contract shall not exceed \$ 5,761,000.00.

Contractor shall notify the Contract Monitor, in writing, at least sixty (60) days before payments reach the above specified amount. After notification by the Contractor, if the State fails to increase the Contract amount, the Contractor shall have no obligation to perform under this Contract after payments reach the stated amount; provided, however, that, prior to the stated amount being reached, the Contractor shall: (a) promptly consult with the State and work in good faith to establish a plan of action to assure that every reasonable effort has been undertaken by the Contractor to complete State-defined critical work in progress prior to the date the stated amount will be reached; and (b) when applicable secure databases, systems, platforms, and/or applications on which the Contractor is working so that no damage or vulnerabilities to any of the same will exist due to the existence of any such unfinished work.

- 4.2 Payments to the Contractor shall be made no later than thirty (30) days after the Department's receipt of a proper invoice for services provided by the Contractor, acceptance by the Department of services provided by the Contractor, and pursuant to the conditions outlined in Section 4 of this Contract. Each invoice for services rendered must include the Contractor's Federal Tax Identification or Social Security Number for a Contractor who is an individual which is **(Contractor's FEIN or SSN)**. Charges for late payment of invoices other than as prescribed at Md. Code Ann., State Finance and Procurement Article, §15-104 as from time-to-time amended, are prohibited. Invoices shall be submitted to the Contract Monitor. Electronic funds transfer shall be used by the State to pay Contractor pursuant to this Contract and any other State payments due Contractor unless the State Comptroller's Office grants Contractor an exemption.
- 4.3 In addition to any other available remedies, if, in the opinion of the Procurement Officer, the Contractor fails to perform in a satisfactory and timely manner, the Procurement Officer may refuse or limit approval of any invoice for payment, and may cause payments to the Contractor to be reduced or withheld until such time as the Contractor meets performance standards as established by the Procurement Officer.

- 4.4 Payment of an invoice by the Department is not evidence that services were rendered as required under this Contract.
- 4.5 Contractor's eMarylandMarketplace vendor ID number is (Contractor's eMM number).

## **5. Rights to Records**

- 5.1 The Contractor agrees that all documents and materials including, but not limited to, software, reports, drawings, studies, specifications, estimates, tests, maps, photographs, designs, graphics, mechanical, artwork, computations, and data prepared by the Contractor for purposes of this Contract shall be the sole property of the State and shall be available to the State at any time. The State shall have the right to use the same without restriction and without compensation to the Contractor other than that specifically provided by this Contract.
- 5.2 The Contractor agrees that at all times during the term of this Contract and thereafter, works created as a deliverable under this Contract, and services performed under this Contract shall be "works made for hire" as that term is interpreted under U.S. copyright law. To the extent that any products created as a deliverable under this Contract are not works made for hire for the State, the Contractor hereby relinquishes, transfers, and assigns to the State all of its rights, title, and interest (including all intellectual property rights) to all such products created under this Contract, and will cooperate reasonably with the State in effectuating and registering any necessary assignments.
- 5.3 The Contractor shall report to the Contract Monitor, promptly and in written detail, each notice or claim of copyright infringement received by the Contractor with respect to all data delivered under this Contract.
- 5.4 The Contractor shall not affix any restrictive markings upon any data, documentation, or other materials provided to the State hereunder and if such markings are affixed, the State shall have the right at any time to modify, remove, obliterate, or ignore such warnings.

## **6. Exclusive Use**

The State shall have the exclusive right to use, duplicate, and disclose any data, information, documents, records, or results, in whole or in part, in any manner for any purpose whatsoever, that may be created or generated by the Contractor in connection with this Contract. If any material, including software, is capable of being copyrighted, the State shall be the copyright owner and Contractor may copyright material connected with this project only with the express written approval of the State.

## **7. Patents, Copyrights, and Intellectual Property**

- 7.1 If the Contractor furnishes any design, device, material, process, or other item, which is covered by a patent, trademark or service mark, or copyright or which is proprietary to, or a trade secret of, another, the Contractor shall obtain the necessary permission or license to permit the State to use such item or items.
- 7.2 The Contractor will defend or settle, at its own expense, any claim or suit against the State alleging that any such item furnished by the Contractor infringes any patent, trademark, service mark, copyright, or trade secret. If a third party claims that a product infringes that party's patent, trademark, service mark, trade secret, or copyright, the Contractor will defend the State against that claim at Contractor's expense and will pay all damages, costs, and attorneys' fees that a court finally awards, provided the State: (a) promptly notifies the Contractor in writing of the claim; and (b) allows Contractor to control and cooperates with Contractor in, the defense and any related settlement negotiations. The obligations of this paragraph are in addition to those stated in Section 7.3 below.
- 7.3 If any products furnished by the Contractor become, or in the Contractor's opinion are likely to become, the subject of a claim of infringement, the Contractor will, at its option and expense: (a) procure for the State the right to continue using the applicable item; (b) replace the product with a non-infringing product substantially

complying with the item's specifications; or (c) modify the item so that it becomes non-infringing and performs in a substantially similar manner to the original item.

## **8. Confidentiality**

- 8.1 Subject to the Maryland Public Information Act and any other applicable laws including, without limitation, HIPAA, the HI-TECH ACT, and the Maryland Medical Records Act, all confidential or proprietary information and documentation relating to either party (including without limitation, any information or data stored within the Contractor's computer systems) shall be held in absolute confidence by the other party. Each party shall, however, be permitted to disclose relevant confidential information to its officers, agents, and employees to the extent that such disclosure is necessary for the performance of their duties under this Contract, provided that the data may be collected, used, disclosed, stored, and disseminated only as provided by and consistent with the law. The provisions of this section shall not apply to information that: (a) is lawfully in the public domain; (b) has been independently developed by the other party without violation of this Contract; (c) was already in the possession of such party; (d) was supplied to such party by a third party lawfully in possession thereof and legally permitted to further disclose the information; or (e) which such party is required to disclose by law.
- 8.2 This Section 8 shall survive expiration or termination of this Contract.

## **9. Loss of Data**

In the event of loss of any State data or records where such loss is due to the intentional act or omission or negligence of the Contractor or any of its subcontractors or agents, the Contractor shall be responsible for recreating such lost data in the manner and on the schedule set by the Contract Monitor. The Contractor shall ensure that all data is backed up and recoverable by the Contractor. Contractor shall use its best efforts to assure that at no time shall any actions undertaken by the Contractor under this Contract (or any failures to act when Contractor has a duty to act) damage or create any vulnerabilities in data bases, systems, platforms, and/or applications with which the Contractor is working hereunder.

## **10. Indemnification**

- 10.1 The Contractor shall hold harmless and indemnify the State from and against any and all losses, damages, claims, suits, actions, liabilities, and/or expenses, including, without limitation, attorneys' fees and disbursements of any character that arise from, are in connection with or are attributable to the performance or nonperformance of the Contractor or its subcontractors under this Contract.
- This indemnification clause shall not be construed to mean that the Contractor shall indemnify the State against liability for any losses, damages, claims, suits, actions, liabilities, and/or expenses that are attributable to the sole negligence of the State or the State's employees.
- 10.2 The State of Maryland has no obligation to provide legal counsel or defense to the Contractor or its subcontractors in the event that a suit, claim, or action of any character is brought by any person not party to this Contract against the Contractor or its subcontractors as a result of or relating to the Contractor's performance under this Contract.
- 10.3 The State has no obligation for the payment of any judgments or the settlement of any claims against the Contractor or its subcontractors as a result of or relating to the Contractor's performance under this Contract.
- 10.4 The Contractor shall immediately notify the Procurement Officer of any claim or suit made or filed against the Contractor or its subcontractors regarding any matter resulting from, or relating to, the Contractor's obligations under the Contract, and will cooperate, assist, and consult with the State in the defense or investigation of any claim, suit, or action made or filed against the State as a result of, or relating to, the Contractor's performance under this Contract.

10.5 This Section 10 shall survive termination of this Contract.

## **11. Non-Hiring of Employees**

No official or employee of the State, as defined under Md. Code Ann., State Government Article, § 15-102, whose duties as such official or employee include matters relating to or affecting the subject matter of this Contract, shall, during the pendency and term of this Contract and while serving as an official or employee of the State, become or be an employee of the Contractor or any entity that is a subcontractor on this Contract.

## **12. Disputes**

This Contract shall be subject to the provisions of Md. Code Ann., State Finance and Procurement Article, Title 15, Subtitle 2, and COMAR 21.10 (Administrative and Civil Remedies). Pending resolution of a claim, the Contractor shall proceed diligently with the performance of the Contract in accordance with the Procurement Officer's decision. Unless a lesser period is provided by applicable statute, regulation, or the Contract, the Contractor must file a written notice of claim with the Procurement Officer within thirty (30) days after the basis for the claim is known or should have been known, whichever is earlier. Contemporaneously with or within thirty (30) days of the filing of a notice of claim, but no later than the date of final payment under the Contract, the Contractor must submit to the Procurement Officer its written claim containing the information specified in COMAR 21.10.04.02.

## **13. Maryland Law**

13.1 This Contract shall be construed, interpreted, and enforced according to the laws of the State of Maryland.

13.2 The Md. Code Ann., Commercial Law Article, Title 22, Maryland Uniform Computer Information Transactions Act, does not apply to this Contract or to any purchase order or Notice to Proceed issued under this Contract.

13.3 Any and all references to the Maryland Code, Annotated contained in this Contract shall be construed to refer to such Code sections as are from time to time amended.

## **14. Nondiscrimination in Employment**

The Contractor agrees: (a) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, marital status, national origin, ancestry, or disability of a qualified individual with a disability; (b) to include a provision similar to that contained in subsection (a), above, in any underlying subcontract except a subcontract for standard commercial supplies or raw materials; and (c) to post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

## **15. Contingent Fee Prohibition**

The Contractor warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency working for the business, to solicit or secure the Contract, and that the business has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency, any fee or any other consideration contingent on the making of this Contract.

## **16. Non-availability of Funding**

If the General Assembly fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of this Contract succeeding the first fiscal period, this Contract shall be canceled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made

available; provided, however, that this will not affect either the State's rights or the Contractor's rights under any termination clause in this Contract. The effect of termination of the Contract hereunder will be to discharge both the Contractor and the State from future performance of the Contract, but not from their rights and obligations existing at the time of termination. The Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the Contract. The State shall notify the Contractor as soon as it has knowledge that funds may not be available for the continuation of this Contract for each succeeding fiscal period beyond the first.

#### **17. Termination for Cause**

If the Contractor fails to fulfill its obligations under this Contract properly and on time, or otherwise violates any provision of the Contract, the State may terminate the Contract by written notice to the Contractor. The notice shall specify the acts or omissions relied upon as cause for termination. All finished or unfinished work provided by the Contractor shall, at the State's option, become the State's property. The State shall pay the Contractor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by the Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the State can affirmatively collect damages. Termination hereunder, including the termination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.11B.

#### **18. Termination for Convenience**

The performance of work under this Contract may be terminated by the State in accordance with this clause in whole, or from time to time in part, whenever the State shall determine that such termination is in the best interest of the State. The State will pay all reasonable costs associated with this Contract that the Contractor has incurred up to the date of termination, and all reasonable costs associated with termination of the Contract; provided, however, the Contractor shall not be reimbursed for any anticipatory profits that have not been earned up to the date of termination. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.12A(2).

#### **19. Delays and Extensions of Time**

The Contractor agrees to prosecute the work continuously and diligently and no charges or claims for damages shall be made by it for any delays, interruptions, interferences, or hindrances from any cause whatsoever during the progress of any portion of the work specified in this Contract.

Time extensions will be granted only for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, acts of the public enemy, acts of the State in either its sovereign or contractual capacity, acts of another Contractor in the performance of a contract with the State, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either the Contractor or the subcontractors or suppliers.

#### **20. Suspension of Work**

The State unilaterally may order the Contractor in writing to suspend, delay, or interrupt all or any part of its performance for such period of time as the Procurement Officer may determine to be appropriate for the convenience of the State.

#### **21. Pre-Existing Regulations**

In accordance with the provisions of Md. Code Ann., State Finance and Procurement Article, § 11-206, the regulations set forth in Title 21 of the Code of Maryland Regulations (COMAR 21) in effect on the date of execution of this Contract are applicable to this Contract.

## **22. Financial Disclosure**

The Contractor shall comply with the provisions of Md. Code Ann., State Finance and Procurement Article, § 13-221, which requires that every person that enters into contracts, leases, or other agreements with the State or its agencies during a calendar year under which the business is to receive in the aggregate, \$100,000 or more, shall within thirty (30) days of the time when the aggregate value of these contracts, leases or other agreements reaches \$100,000, file with the Secretary of the State certain specified information to include disclosure of beneficial ownership of the business.

## **23. Political Contribution Disclosure**

The Contractor shall comply with Md. Code Ann., Election Law Article, §§ 14-101 through 14-108, which requires that every person that enters into contracts, leases, or other agreements with the State, a county, or an incorporated municipality, or their agencies, during a calendar year in which the person receives in the aggregate \$100,000 or more, shall, file with the State Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election. The statement shall be filed with the State Board of Elections: (a) before a purchase or execution of a lease or contract by the State, a county, an incorporated municipality, or their agencies, and shall cover the preceding two calendar years; and (b) if the contribution is made after the execution of a lease or contract, then twice a year, throughout the contract term, on: (i) February 5, to cover the six (6) month period ending January 31; and (ii) August 5, to cover the six (6) month period ending July 31.

## **24. Documents Retention and Inspection Clause**

The Contractor and subcontractors shall retain and maintain all records and documents relating to this contract for a period of five (5) years after final payment by the State hereunder or any applicable statute of limitations, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, including the Procurement Officer or designee, at all reasonable times. All records related in any way to the Contract are to be retained for the entire time provided under this section. This Section 24 shall survive expiration or termination of the Contract.

If the Contractor supplies services to a State residential health care facility under the Mental Hygiene Administration, the Family Health Administration, the Alcohol and Drug Abuse Administration, or the Developmental Disabilities Administration, the Contractor agrees, in addition to the requirements above,:

- 24.1 That pursuant to 42 Code of Federal Regulations (C.F.R.) Part 420, the Secretary of Health and Human Services, and the Comptroller General of the United States, or their duly-authorized representatives, shall be granted access to the Contractor's contract, books, documents, and records necessary to verify the cost of the services provided under this contract, until the expiration of four (4) years after the services are furnished under this contract; and
- 24.2 That similar access will be allowed to the books, documents, and records of any organization related to the Contractor or controlled by the Contractor (as those terms are defined in 42 C.F.R. (420.301) if that organization is subcontracting to provide services with a value of \$10,000 or more in a twelve (12) month period to be reimbursed through funds provided by this contract.

## **25. Compliance with Laws**

The Contractor hereby represents and warrants that:

- 25.1 It is qualified to do business in the State and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;

- 25.2 It is not in arrears with respect to the payment of any monies due and owing the State, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract;
- 25.3 It shall comply with all federal, State and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and
- 25.4 It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

## **26. Cost and Price Certification**

By submitting cost or price information, the Contractor certifies to the best of its knowledge that the information submitted is accurate, complete, and current as of the date of its Bid/Proposal.

The price under this Contract and any change order or modification hereunder, including profit or fee, shall be adjusted to exclude any significant price increases occurring because the Contractor furnished cost or price information which, as of the date of its Bid/Proposal, was inaccurate, incomplete, or not current.

## **27. Subcontracting; Assignment**

The Contractor may not subcontract any portion of the services provided under this Contract without obtaining the prior written approval of the Department's Procurement Officer, nor may the Contractor assign this Contract or any of its rights or obligations hereunder, without the prior written approval of the Department's Procurement Officer provided, however, that a contractor may assign monies receivable under a contract after due notice to the State. Any subcontracts shall include such language as may be required in various clauses contained within this contract, exhibits, and attachments. The contract shall not be assigned until all approvals, documents, and affidavits are completed and properly registered. The State shall not be responsible for fulfillment of the Contractor's obligations to its subcontractors.

## **28. Liability**

- 28.1 For breach of this Contract, negligence, misrepresentation, or any other contract or tort claim, Contractor shall be liable as follows:
- a. For infringement of patents, copyrights, trademarks, service marks, and/or trade secrets, as provided in Section 7 of this Contract;
  - b. Without limitation for damages for bodily injury (including death) and damage to real property and tangible personal property; and
  - c. For all other claims, damages, losses, costs, expenses, suits, or actions in any way related to this Contract, regardless of the form. Contractor's liability for third party claims arising under Section 10 of this Contract shall be unlimited if the State is not immune from liability for claims arising under Section 10.

## **29. Parent Company Guarantee (If Applicable)**

(Corporate name of Contractor's Parent Company) hereby guarantees absolutely the full, prompt, and complete performance by (Contractor) of all the terms, conditions and obligations contained in this Contract, as it may be amended from time to time, including any and all exhibits that are now or may become incorporated hereunto, and other obligations of every nature and kind that now or may in the future arise out of or in connection with this Contract, including any and all financial commitments, obligations, and liabilities. (Corporate name of Contractor's Parent Company) may not transfer this absolute guaranty to any other person or entity without the prior express

written approval of the State, which approval the State may grant, withhold, or qualify in its sole and absolute subjective discretion. (Corporate name of Contractor's Parent Company) further agrees that if the State brings any claim, action, suit or proceeding against (Contractor), (Corporate name of Contractor's Parent Company) may be named as a party, in its capacity as Absolute Guarantor.

### **30. Commercial Nondiscrimination**

- 30.1 As a condition of entering into this Contract, Contractor represents and warrants that it will comply with the State's Commercial Nondiscrimination Policy, as described at Md. Code Ann., State Finance and Procurement Article, Title 19. As part of such compliance, Contractor may not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall Contractor retaliate against any person for reporting instances of such discrimination. Contractor shall provide equal opportunity for subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that this clause does not prohibit or limit lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the marketplace. Contractor understands that a material violation of this clause shall be considered a material breach of this Contract and may result in termination of this Contract, disqualification of Contractor from participating in State contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.
- 30.2 The Contractor shall include the above Commercial Nondiscrimination clause, or similar clause approved by the Department, in all subcontracts.
- 30.3 As a condition of entering into this Contract, upon the request of the Commission on Civil Rights, and only after the filing of a complaint against Contractor under Md. Code Ann., State Finance and Procurement Article, Title 19, as amended from time to time, Contractor agrees to provide within sixty (60) days after the request a complete list of the names of all subcontractors, vendors, and suppliers that Contractor has used in the past four (4) years on any of its contracts that were undertaken within the State of Maryland, including the total dollar amount paid by Contractor on each subcontract or supply contract. Contractor further agrees to cooperate in any investigation conducted by the State pursuant to the State's Commercial Nondiscrimination Policy as set forth at Md. Code Ann., State Finance and Procurement Article, Title 19, and to provide any documents relevant to any investigation that are requested by the State. Contractor understands that violation of this clause is a material breach of this Contract and may result in contract termination, disqualification by the State from participating in State contracts, and other sanctions.

### **31. Prompt Pay Requirements**

- 31.1 If the Contractor withholds payment of an undisputed amount to its subcontractor, the Department, at its option and in its sole discretion, may take one or more of the following actions:
- a. Not process further payments to the contractor until payment to the subcontractor is verified;
  - b. Suspend all or some of the contract work without affecting the completion date(s) for the contract work;
  - c. Pay or cause payment of the undisputed amount to the subcontractor from monies otherwise due or that may become due;
  - d. Place a payment for an undisputed amount in an interest-bearing escrow account; or
  - e. Take other or further actions as appropriate to resolve the withheld payment.
- 31.2 An "undisputed amount" means an amount owed by the Contractor to a subcontractor for which there is no good faith dispute. Such "undisputed amounts" include, without limitation,:
- a. Retainage which had been withheld and is, by the terms of the agreement between the Contractor and subcontractor, due to be distributed to the subcontractor; and



- b. An amount withheld because of issues arising out of an agreement or occurrence unrelated to the agreement under which the amount is withheld.
- 31.3 An act, failure to act, or decision of a Procurement Officer or a representative of the Department, concerning a withheld payment between the Contractor and a subcontractor under this provision, may not:
- a. Affect the rights of the contracting parties under any other provision of law;
  - b. Be used as evidence on the merits of a dispute between the Department and the contractor in any other proceeding; or
  - c. Result in liability against or prejudice the rights of the Department.
- 31.4 The remedies enumerated above are in addition to those provided under COMAR 21.11.03.13 with respect to subcontractors that have contracted pursuant to the Minority Business Enterprise (MBE) program.
- 31.5 To ensure compliance with certified MBE subcontract participation goals, the Department may, consistent with COMAR 21.11.03.13, take the following measures:
- a. Verify that the certified MBEs listed in the MBE participation schedule actually are performing work and receiving compensation as set forth in the MBE participation schedule.
  - b. This verification may include, as appropriate:
    - i. Inspecting any relevant records of the Contractor;
    - ii. Inspecting the jobsite; and
    - iii. Interviewing subcontractors and workers.
    - iv. Verification shall include a review of:
      - (a) The Contractor's monthly report listing unpaid invoices over thirty (30) days old from certified MBE subcontractors and the reason for nonpayment; and
      - (b) The monthly report of each certified MBE subcontractor, which lists payments received from the Contractor in the preceding thirty (30) days and invoices for which the subcontractor has not been paid.
  - c. If the Department determines that the Contractor is not in compliance with certified MBE participation goals, then the Department will notify the Contractor in writing of its findings, and will require the Contractor to take appropriate corrective action. Corrective action may include, but is not limited to, requiring the Contractor to compensate the MBE for work performed as set forth in the MBE participation schedule.
  - d. If the Department determines that the Contractor is in material noncompliance with MBE contract provisions and refuses or fails to take the corrective action that the Department requires, then the Department may:
    - i. Terminate the contract;
    - ii. Refer the matter to the Office of the Attorney General for appropriate action; or
    - iii. Initiate any other specific remedy identified by the contract, including the contractual remedies required by any applicable laws, regulations, and directives regarding the payment of undisputed amounts.
  - e. Upon completion of the Contract, but before final payment or release of retainage or both, the Contractor shall submit a final report, in affidavit form under the penalty of perjury, of all payments made to, or withheld from, MBE subcontractors.

## **32. Contract Monitor**

The work to be accomplished under this Contract shall be performed under the direction of the Contract Monitor. All matters relating to the interpretation of this Contract shall be referred to the Procurement Officer for determination.

## **33. Notices**

All notices hereunder shall be in writing and either delivered personally or sent by certified or registered mail, postage prepaid, as follows:

If to the State: \_\_\_\_\_  
Procurement Officer  
Maryland Department of Health and Mental Hygiene  
Office of Procurement and Support Services  
201 West Preston Street, Room 416  
Baltimore, Maryland 21201

If to the Contractor: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**34. Federal Department of Health and Human Services (DHHS) Exclusion Requirements**

The Contractor agrees that it will comply with federal provisions (pursuant to §§ 1128 and 1156 of the Social Security Act and 42 C.F.R. 1001) that prohibit payments under certain federal health care programs to any individual or entity that is on the List of Excluded Individuals/Entities maintained by DHHS. By executing this contract, the Contractor affirmatively declares that neither it nor any employee is, to the best of its knowledge, subject to exclusion. The Contractor agrees, further, during the term of this contract, to check the List of Excluded Individuals/Entities prior to hiring or assigning individuals to work on this contract, and to notify the DHMH Office of Systems, Operations and Pharmacy immediately of any identification of the contractor or an individual employee as excluded, and of any DHHS action or proposed action to exclude the contractor or any contractor employee.

**35. Confidentiality**

The Contractor agrees to keep information obtained in the course of this contract confidential in compliance with \_\_\_\_\_. The Contractor agrees further to comply with any applicable State and federal confidentiality requirements regarding collection, maintenance, and use of health and financial information. This includes, where appropriate, the federal Health Insurance Portability and Accountability Act (HIPAA), 42 U.S.C. §§ 1320d et seq., and implementing regulations at 45 C.F.R. Parts 160 and 164, and the Maryland Confidentiality of Medical Records Act (MCMRA), Md. Code Ann. Health-General §§ 4-301 et seq. This obligation includes providing training and information to employees regarding confidentiality obligations as to health and financial information and securing acknowledgement of these obligations from employees to be involved in the contract. This obligation further includes restricting use and disclosure of the records, generally providing safeguards against misuse of information, keeping a record of any disclosures of information, providing all necessary procedural and legal protection for any disclosures of information, promptly responding to any requests by the Department for information about its privacy practices in general or with respect to a particular individual, modifying information as may be required by good professional practice as authorized by law, and otherwise providing good information management practices regarding all health and financial information.

**36. Hiring Agreement**

The Contractor agrees to execute and comply with the enclosed Maryland Department of Human Resources (DHR) Hiring Agreement (Attachment P). The Hiring Agreement is to be executed by the Bidder/Offeror and delivered to the Procurement Officer within ten (10) Working Days following receipt of notice by the Bidder/Offeror that it is being recommended for contract award. The Hiring Agreement will become effective concurrently with the award of the contract.

The Hiring Agreement provides that the Contractor and DHR will work cooperatively to promote hiring by the Contractor of qualified individuals for job openings resulting from this procurement, in accordance with Md. Code Ann., State Finance and Procurement Article §13-224.

**37. Limited English Proficiency**

The contractor shall provide equal access to public services to individuals with limited English proficiency in compliance with Md. Code Ann., State Government Article, §§ 10-1101 et seq., and Policy Guidance issued by the Office of Civil Rights, Department of Health and Human Services, and DHMH Policy 02.06.07.

**38. Miscellaneous**

- 38.1 Any provision of this contract which contemplates performance or observance subsequent to any termination or expiration of this contract shall survive termination or expiration of this contract and continue in full force and effect.
- 38.2 If any term contained in this contract is held or finally determined to be invalid, illegal, or unenforceable in any respect, in whole or in part, such term shall be severed from this contract, and the remaining terms contained herein shall continue in full force and effect, and shall in no way be affected, prejudiced, or disturbed thereby.

**IN WITNESS THEREOF**, the parties have executed this Contract as of the date hereinabove set forth.

CONTRACTOR

STATE OF MARYLAND  
DEPARTMENT OF HEALTH AND  
MENTAL HYGIENE

\_\_\_\_\_  
By:

\_\_\_\_\_  
By: Joshua M. Sharfstein, M.D., Secretary

\_\_\_\_\_  
Date

Or designee:

\_\_\_\_\_

\_\_\_\_\_  
Date

Approved for form and legal sufficiency  
this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Assistant Attorney General

APPROVED BY BPW: \_\_\_\_\_  
(Date) (BPW Item #)

Rev. 3/11/2013

## ATTACHMENT B – BID/PROPOSAL AFFIDAVIT

### A. AUTHORITY

I hereby affirm that I, \_\_\_\_\_ (name of affiant) am the \_\_\_\_\_ (title) and duly authorized representative of \_\_\_\_\_ (name of business entity) and that I possess the legal authority to make this affidavit on behalf of the business for which I am acting.

### B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

The undersigned Bidder/Offeror hereby certifies and agrees that the following information is correct: In preparing its Bid/Proposal on this project, the Bidder/Offeror has considered all Proposals submitted from qualified, potential subcontractors and suppliers, and has not engaged in "discrimination" as defined in § 19-103 of the State Finance and Procurement Article of the Annotated Code of Maryland. "Discrimination" means any disadvantage, difference, distinction, or preference in the solicitation, selection, hiring, or commercial treatment of a vendor, subcontractor, or commercial customer on the basis of race, color, religion, ancestry, or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or any otherwise unlawful use of characteristics regarding the vendor's, supplier's, or commercial customer's employees or owners. "Discrimination" also includes retaliating against any person or other entity for reporting any incident of "discrimination". Without limiting any other provision of the solicitation on this project, it is understood that, if the certification is false, such false certification constitutes grounds for the State to reject the Bid/Proposal submitted by the Bidder/Offeror on this project, and terminate any contract awarded based on the Bid/Proposal. As part of its Bid/Proposal, the Bidder/Offeror herewith submits a list of all instances within the past 4 years where there has been a final adjudicated determination in a legal or administrative proceeding in the State of Maryland that the Bidder/Offeror discriminated against subcontractors, vendors, suppliers, or commercial customers, and a description of the status or resolution of that determination, including any remedial action taken. Bidder/Offeror agrees to comply in all respects with the State's Commercial Nondiscrimination Policy as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland.

#### B-1. CERTIFICATION REGARDING MINORITY BUSINESS ENTERPRISES.

The undersigned Bidder/Offeror hereby certifies and agrees that it has fully complied with the State Minority Business Enterprise Law, State Finance and Procurement Article, § 14-308(a)(2), Annotated Code of Maryland, which provides that, except as otherwise provided by law, a contractor may not identify a certified minority business enterprise in a Bid/Proposal and:

- (1) Fail to request, receive, or otherwise obtain authorization from the certified minority business enterprise to identify the certified minority Proposal;
- (2) Fail to notify the certified minority business enterprise before execution of the contract of its inclusion in the Bid/Proposal;
- (3) Fail to use the certified minority business enterprise in the performance of the contract; or
- (4) Pay the certified minority business enterprise solely for the use of its name in the Bid/Proposal.

Without limiting any other provision of the solicitation on this project, it is understood that if the certification is false, such false certification constitutes grounds for the State to reject the Bid/Proposal submitted by the Bidder/Offeror on this project, and terminate any contract awarded based on the Bid/Proposal.

#### B-2. CERTIFICATION REGARDING VETERAN-OWNED SMALL BUSINESS ENTERPRISES.

The undersigned Bidder/Offeror hereby certifies and agrees that it has fully complied with the State veteran-owned small business enterprise law, State Finance and Procurement Article, § 14-605, Annotated Code of Maryland, which provides that a person may not:

- (1) Knowingly and with intent to defraud, fraudulently obtain, attempt to obtain, or aid another person in fraudulently obtaining or attempting to obtain public money, procurement contracts, or funds expended under a procurement contract to which the person is not entitled under this title;
- (2) Knowingly and with intent to defraud, fraudulently represent participation of a veteran-owned small business enterprise in order to obtain or retain a Bid/Proposal preference or a procurement contract;
- (3) Willfully and knowingly make or subscribe to any statement, declaration, or other document that is fraudulent or false as to any material matter, whether or not that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document;
- (4) Willfully and knowingly aid, assist in, procure, counsel, or advise the preparation or presentation of a declaration, statement, or other document that is fraudulent or false as to any material matter, regardless of whether that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document;
- (5) Willfully and knowingly fail to file any declaration or notice with the unit that is required by COMAR 21.11.12; or
- (6) Establish, knowingly aid in the establishment of, or exercise control over a business found to have violated a provision of § B-2(1)-(5) of this regulation.

C. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business (as is defined in Section 16-101(b) of the State Finance and Procurement Article of the Annotated Code of Maryland), or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies has been convicted of, or has had probation before judgment imposed pursuant to Criminal Procedure Article, § 6-220, Annotated Code of Maryland, or has pleaded nolo contendere to a charge of, bribery, attempted bribery, or conspiracy to bribe in violation of Maryland law, or of the law of any other state or federal law, except as follows (indicate the reasons why the affirmation cannot be given and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of person(s) involved, and their current positions and responsibilities with the business):

---

---

---

D. AFFIRMATION REGARDING OTHER CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies, has:

(1) Been convicted under state or federal statute of:

(a) A criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract; or

(b) Fraud, embezzlement, theft, forgery, falsification or destruction of records or receiving stolen property;

(2) Been convicted of any criminal violation of a state or federal antitrust statute;

(3) Been convicted under the provisions of Title 18 of the United States Code for violation of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. § 1961 et seq., or the Mail Fraud Act, 18 U.S.C. § 1341 et seq., for acts in connection with the submission of Bids/Proposals for a public or private contract;

(4) Been convicted of a violation of the State Minority Business Enterprise Law, § 14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland;

(5) Been convicted of a violation of § 11-205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland;

(6) Been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any law or statute described in subsections (1)—(5) above;

(7) Been found civilly liable under a state or federal antitrust statute for acts or omissions in connection with the submission of Bids/Proposals for a public or private contract;

(8) Been found in a final adjudicated decision to have violated the Commercial Nondiscrimination Policy under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland with regard to a public or private contract; or

(9) Admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any law or statute described in §§ B and C and subsections D(1)—(8) above, except as follows (indicate reasons why the affirmations cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment):

---

---

---

#### E. AFFIRMATION REGARDING DEBARMENT

##### I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities, including obtaining or performing contracts with public bodies, has ever been suspended or debarred

(including being issued a limited denial of participation) by any public entity, except as follows (list each debarment or suspension providing the dates of the suspension or debarment, the name of the public entity and the status of the proceedings, the name(s) of the person(s) involved and their current positions and responsibilities with the business, the grounds of the debarment or suspension, and the details of each person's involvement in any activity that formed the grounds of the debarment or suspension).

---

---

---

F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

- (1) The business was not established and it does not operate in a manner designed to evade the application of or defeat the purpose of debarment pursuant to Sections 16-101, et seq., of the State Finance and Procurement Article of the Annotated Code of Maryland; and
- (2) The business is not a successor, assignee, subsidiary, or affiliate of a suspended or debarred business, except as follows (you must indicate the reasons why the affirmations cannot be given without qualification):

---

---

---

G. SUBCONTRACT AFFIRMATION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, has knowingly entered into a contract with a public body under which a person debarred or suspended under Title 16 of the State Finance and Procurement Article of the Annotated Code of Maryland will provide, directly or indirectly, supplies, services, architectural services, construction related services, leases of real property, or construction.

H. AFFIRMATION REGARDING COLLUSION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business has:

- (1) Agreed, conspired, connived, or colluded to produce a deceptive show of competition in the compilation of the accompanying Bid/Proposal that is being submitted;
- (2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the Bid/Proposal price of the Bidder/Offeror or of any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for which the accompanying Bid/Proposal is submitted.

I. CERTIFICATION OF TAX PAYMENT



**I FURTHER AFFIRM THAT:**

Except as validly contested, the business has paid, or has arranged for payment of, all taxes due the State of Maryland and has filed all required returns and reports with the Comptroller of the Treasury, the State Department of Assessments and Taxation, and the Department of Labor, Licensing, and Regulation, as applicable, and will have paid all withholding taxes due the State of Maryland prior to final settlement.

**J. CONTINGENT FEES**

**I FURTHER AFFIRM THAT:**

The business has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency working for the business, to solicit or secure the Contract, and that the business has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency, any fee or any other consideration contingent on the making of the Contract.

**K. ACKNOWLEDGEMENT**

I ACKNOWLEDGE THAT this Affidavit is to be furnished to the Procurement Officer and may be distributed to units of: (1) the State of Maryland; (2) counties or other subdivisions of the State of Maryland; (3) other states; and (4) the federal government. I further acknowledge that this Affidavit is subject to applicable laws of the United States and the State of Maryland, both criminal and civil, and that nothing in this Affidavit or any contract resulting from the submission of this Bid/Proposal shall be construed to supersede, amend, modify or waive, on behalf of the State of Maryland, or any unit of the State of Maryland having jurisdiction, the exercise of any statutory right or remedy conferred by the Constitution and the laws of Maryland with respect to any misrepresentation made or any violation of the obligations, terms and covenants undertaken by the above business with respect to (1) this Affidavit, (2) the contract, and (3) other Affidavits comprising part of the contract.

**I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.**

Date: \_\_\_\_\_

By: \_\_\_\_\_ (print name of Authorized Representative and Affiant)

\_\_\_\_\_ (signature of Authorized Representative and Affiant)

## ATTACHMENT C – CONTRACT AFFIDAVIT

### A. AUTHORITY

I hereby affirm that I, \_\_\_\_\_ (name of affiant) am the \_\_\_\_\_ (title) and duly authorized representative of \_\_\_\_\_ (name of business entity) and that I possess the legal authority to make this affidavit on behalf of the business for which I am acting.

### B. CERTIFICATION OF REGISTRATION OR QUALIFICATION WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION

#### I FURTHER AFFIRM THAT:

The business named above is a (check applicable box):

- (1) Corporation — ☐ domestic or ☐ foreign;
- (2) Limited Liability Company — ☐ domestic or ☐ foreign;
- (3) Partnership — ☐ domestic or ☐ foreign;
- (4) Statutory Trust — ☐ domestic or ☐ foreign;
- (5) ☐ Sole Proprietorship.

and is registered or qualified as required under Maryland Law. I further affirm that the above business is in good standing both in Maryland and (IF APPLICABLE) in the jurisdiction where it is presently organized, and has filed all of its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation. The name and address of its resident agent (IF APPLICABLE) filed with the State Department of Assessments and Taxation is:

Name and Department ID

Number: \_\_\_\_\_ Address: \_\_\_\_\_

and that if it does business under a trade name, it has filed a certificate with the State Department of Assessments and Taxation that correctly identifies that true name and address of the principal or owner as:

Name and Department ID

Number: \_\_\_\_\_ Address: \_\_\_\_\_

### C. FINANCIAL DISCLOSURE AFFIRMATION

#### I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, the provisions of State Finance and Procurement Article, §13-221, Annotated Code of Maryland, which require that every business that enters into contracts, leases, or other agreements with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate \$100,000 or more shall, within 30 days of the time when the aggregate value of the contracts, leases, or other agreements reaches \$100,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

### D. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

#### I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, Election Law Article, §§14-101 — 14-108, Annotated Code of Maryland, which requires that every person that enters into contracts, leases, or other agreements with the State of Maryland, including its agencies or a political subdivision of the State, during a calendar year in which the person receives in the aggregate \$100,000 or more shall file with the State Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election.

#### E. DRUG AND ALCOHOL FREE WORKPLACE

(Applicable to all contracts unless the contract is for a law enforcement agency and the agency head or the agency head's designee has determined that application of COMAR 21.11.08 and this certification would be inappropriate in connection with the law enforcement agency's undercover operations.)

#### I CERTIFY THAT:

(1) Terms defined in COMAR 21.11.08 shall have the same meanings when used in this certification.

(2) By submission of its Bid/Proposal, the business, if other than an individual, certifies and agrees that, with respect to its employees to be employed under a contract resulting from this solicitation, the business shall:

(a) Maintain a workplace free of drug and alcohol abuse during the term of the contract;

(b) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of drugs, and the abuse of drugs or alcohol is prohibited in the business' workplace and specifying the actions that will be taken against employees for violation of these prohibitions;

(c) Prohibit its employees from working under the influence of drugs or alcohol;

(d) Not hire or assign to work on the contract anyone who the business knows, or in the exercise of due diligence should know, currently abuses drugs or alcohol and is not actively engaged in a bona fide drug or alcohol abuse assistance or rehabilitation program;

(e) Promptly inform the appropriate law enforcement agency of every drug-related crime that occurs in its workplace if the business has observed the violation or otherwise has reliable information that a violation has occurred;

(f) Establish drug and alcohol abuse awareness programs to inform its employees about:

- (i) The dangers of drug and alcohol abuse in the workplace;
- (ii) The business's policy of maintaining a drug and alcohol free workplace;
- (iii) Any available drug and alcohol counseling, rehabilitation, and employee assistance programs; and
- (iv) The penalties that may be imposed upon employees who abuse drugs and alcohol in the workplace;

(g) Provide all employees engaged in the performance of the contract with a copy of the statement required by §E(2)(b), above;

(h) Notify its employees in the statement required by §E(2)(b), above, that as a condition of continued employment on the contract, the employee shall:

- (i) Abide by the terms of the statement; and
- (ii) Notify the employer of any criminal drug or alcohol abuse conviction for an offense occurring in the workplace not later than 5 days after a conviction;

(i) Notify the procurement officer within 10 days after receiving notice under §E(2)(h)(ii), above, or otherwise receiving actual notice of a conviction;

(j) Within 30 days after receiving notice under §E(2)(h)(ii), above, or otherwise receiving actual notice of a conviction, impose either of the following sanctions or remedial measures on any employee who is convicted of a drug or alcohol abuse offense occurring in the workplace:

- (i) Take appropriate personnel action against an employee, up to and including termination; or
- (ii) Require an employee to satisfactorily participate in a bona fide drug or alcohol abuse assistance or rehabilitation program; and

(k) Make a good faith effort to maintain a drug and alcohol free workplace through implementation of §E(2)(a)—(j), above.

(3) If the business is an individual, the individual shall certify and agree as set forth in §E(4), below, that the individual shall not engage in the unlawful manufacture, distribution, dispensing, possession, or use of drugs or the abuse of drugs or alcohol in the performance of the contract.

(4) I acknowledge and agree that:

(a) The award of the contract is conditional upon compliance with COMAR 21.11.08 and this certification;

(b) The violation of the provisions of COMAR 21.11.08 or this certification shall be cause to suspend payments under, or terminate the contract for default under COMAR 21.07.01.11 or 21.07.03.15, as applicable; and

(c) The violation of the provisions of COMAR 21.11.08 or this certification in connection with the contract may, in the exercise of the discretion of the Board of Public Works, result in suspension and debarment of the business under COMAR 21.08.03.

#### F. CERTAIN AFFIRMATIONS VALID

##### I FURTHER AFFIRM THAT:

To the best of my knowledge, information, and belief, each of the affirmations, certifications, or acknowledgements contained in that certain Bid/Proposal Affidavit dated \_\_\_\_\_, 201\_\_\_\_, and executed by me for the purpose of obtaining the contract to which this Exhibit is attached remains true and correct in all respects as if made as of the date of this Contract Affidavit and as if fully set forth herein.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: \_\_\_\_\_

By: \_\_\_\_\_ (printed name of Authorized Representative and Affiant)

\_\_\_\_\_ (signature of Authorized Representative and Affiant)

## **ATTACHMENT D – MINORITY BUSINESS ENTERPRISE FORMS**

This solicitation does not include a Minority Business Enterprise (MBE) subcontractor participation goal.

**ATTACHMENT E – PRE-PROPOSAL CONFERENCE RESPONSE FORM**

**SOLICITATION NO. DHMH OPASS- 14-13398**

**Women, Infants, and Children (WIC) Program Local Agency for Targeted  
Areas in Prince George’s County**

A Pre-Proposal Conference will be held at 10:00 a.m., on April 19, 2013, at Maryland Department of Health & Mental Hygiene, 201 W. Preston Street, Lobby Room L-4, Baltimore, MD 21201. Please return this form by April 16, 2013, advising whether or not you plan to attend. Return via e-mail or fax this form to the Procurement Coordinator:

Vern L. Shird, CPPB  
Procurement Coordinator  
Prevention and Health Promotion Administration  
Department of Health and Mental Hygiene  
201 W. Preston St. Room 306  
Baltimore, MD 21201

Phone: 410-767-5555  
Fax: 410-333-7106  
E-Mail: [vern.shird@maryland.gov](mailto:vern.shird@maryland.gov)

Please indicate:

\_\_\_\_\_ Yes, the following representatives will be in attendance:

- 1.
- 2.
- 3.

\_\_\_\_\_ No, we will not be in attendance.

Please specify whether any reasonable accommodations are requested (see RFP § 1.7 “Pre-Proposal Conference”):

---

Signature

---

Title

---

Name of Firm (please print)

## **ATTACHMENT F – FINANCIAL PROPOSAL INSTRUCTIONS**

There is no Financial Proposal required for this RFP, and no Financial Criteria are part of the evaluation of Proposals. See RFP Section 4.5.

## **ATTACHMENT G – LIVING WAGE REQUIREMENTS FOR SERVICE CONTRACTS**

### **Living Wage Requirements for Service Contracts**

- A. This contract is subject to the Living Wage requirements under Md. Code Ann., State Finance and Procurement Article, Title 18, and the regulations proposed by the Commissioner of Labor and Industry (Commissioner). The Living Wage generally applies to a Contractor or Subcontractor who performs work on a State contract for services that is valued at \$100,000 or more. An employee is subject to the Living Wage if he/she is at least 18 years old or will turn 18 during the duration of the contract; works at least 13 consecutive weeks on the State Contract and spends at least one-half of the employee's time during any work week on the State Contract.
- B. The Living Wage Law does not apply to:
- (1) A Contractor who:
    - (a) Has a State contract for services valued at less than \$100,000, or
    - (b) Employs 10 or fewer employees and has a State contract for services valued at less than \$500,000.
  - (2) A Subcontractor who:
    - (a) Performs work on a State contract for services valued at less than \$100,000,
    - (b) Employs 10 or fewer employees and performs work on a State contract for services valued at less than \$500,000, or
    - (c) Performs work for a Contractor not covered by the Living Wage Law as defined in B(1)(b) above, or B(3) or C below.
  - (3) Service contracts for the following:
    - (a) Services with a Public Service Company;
    - (b) Services with a nonprofit organization;
    - (c) Services with an officer or other entity that is in the Executive Branch of the State government and is authorized by law to enter into a procurement ("Unit"); or
    - (d) Services between a Unit and a County or Baltimore City.
- C. If the Unit responsible for the State contract for services determines that application of the Living Wage would conflict with any applicable Federal program, the Living Wage does not apply to the contract or program.
- D. A Contractor must not split or subdivide a State contract for services, pay an employee through a third party, or treat an employee as an independent Contractor or assign work to employees to avoid



the imposition of any of the requirements of Md. Code Ann., State Finance and Procurement Article, Title 18.

- E. Each Contractor/Subcontractor, subject to the Living Wage Law, shall post in a prominent and easily accessible place at the work site(s) of covered employees a notice of the Living Wage Rates, employee rights under the law, and the name, address, and telephone number of the Commissioner.
- F. The Commissioner shall adjust the wage rates by the annual average increase or decrease, if any, in the Consumer Price Index for all urban consumers for the Washington/Baltimore metropolitan area, or any successor index, for the previous calendar year, not later than 90 days after the start of each fiscal year. The Commissioner shall publish any adjustments to the wage rates on the Division of Labor and Industry's website. An employer subject to the Living Wage Law must comply with the rate requirements during the initial term of the contract and all subsequent renewal periods, including any increases in the wage rate, required by the Commissioner, automatically upon the effective date of the revised wage rate.
- G. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's share of the health insurance premium, as provided in Md. Code Ann., State Finance and Procurement Article, §18-103(c), shall not lower an employee's wage rate below the minimum wage as set in Md. Code Ann., Labor and Employment Article, §3-413. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's share of health insurance premium shall comply with any record reporting requirements established by the Commissioner.
- H. A Contractor/Subcontractor may reduce the wage rates paid under Md. Code Ann., State Finance and Procurement Article, §18-103(a), by no more than 50 cents of the hourly cost of the employer's contribution to an employee's deferred compensation plan. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's contribution to an employee's deferred compensation plan shall not lower the employee's wage rate below the minimum wage as set in Md. Code Ann., Labor and Employment Article, §3-413.
- I. Under Md. Code Ann., State Finance and Procurement Article, Title 18, if the Commissioner determines that the Contractor/Subcontractor violated a provision of this title or regulations of the Commissioner, the Contractor/Subcontractor shall pay restitution to each affected employee, and the State may assess liquidated damages of \$20 per day for each employee paid less than the Living Wage.
- J. Information pertaining to reporting obligations may be found by going to the Division of Labor and Industry website <http://www.dllr.state.md.us/labor/> and clicking on Living Wage for State Service Contracts.

## Maryland Living Wage Requirements Affidavit

(submit with Bid/Proposal)

Contract No. \_\_\_\_\_

Name of Contractor \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

### If the Contract Is Exempt from the Living Wage Law

The Undersigned, being an authorized representative of the above named Contractor, hereby affirms that the Contract is exempt from Maryland's Living Wage Law for the following reasons (check all that apply):

- ☐ Bidder/Offeror is a nonprofit organization
- ☐ Bidder/Offeror is a public service company
- ☐ Bidder/Offeror employs 10 or fewer employees and the proposed contract value is less than \$500,000
- ☐ Bidder/Offeror employs more than 10 employees and the proposed contract value is less than \$100,000

### If the Contract Is a Living Wage Contract

- A. The Undersigned, being an authorized representative of the above-named Contractor, hereby affirms its commitment to comply with Title 18, State Finance and Procurement Article, Annotated Code of Maryland and, if required, to submit all payroll reports to the Commissioner of Labor and Industry with regard to the above stated contract. The Bidder/Offeror agrees to pay covered employees who are subject to living wage at least the living wage rate in effect at the time service is provided for hours spent on State contract activities, and to ensure that its Subcontractors who are not exempt also pay the required living wage rate to their covered employees who are subject to the living wage for hours spent on a State contract for services. The Contractor agrees to comply with, and ensure its Subcontractors comply with, the rate requirements during the initial term of the contract and all subsequent renewal periods, including any increases in the wage rate established by the Commissioner of Labor and Industry, automatically upon the effective date of the revised wage rate.
- B. \_\_\_\_\_ (initial here if applicable) The Bidder/Offeror affirms it has no covered employees for the following reasons: (check all that apply):

- ☐ The employee(s) proposed to work on the contract will spend less than one-half of the employee's time during any work week on the contract

- ☐ The employee(s) proposed to work on the contract is 17 years of age or younger during the duration of the contract; or
- ☐ The employee(s) proposed to work on the contract will work less than 13 consecutive weeks on the State contract.

The Commissioner of Labor and Industry reserves the right to request payroll records and other data that the Commissioner deems sufficient to confirm these affirmations at any time.

Name of Authorized Representative: \_\_\_\_\_

\_\_\_\_\_  
Signature of Authorized Representative Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Witness Name (Typed or Printed)

\_\_\_\_\_  
Witness Signature Date

**(submit with Bid/Proposal)**

## ATTACHMENT H - FEDERAL FUNDS ATTACHMENT

### A Summary of Certain Federal Fund Requirements and Restrictions

[Details of particular laws, which may levy a penalty for noncompliance, are available from the Department of Health and Mental Hygiene.]

1. Form and rule enclosed: 18 U.S.C. 1913 and Section 1352 of P.L. 101-121 require that all *prospective* and present sub-grantees (this includes all levels of funding) who receive more than \$100,000 in federal funds must submit the form "Certification Against Lobbying." It assures, generally, that recipients will not lobby federal entities with federal funds, and that, as is required, they will disclose other lobbying on form SF- LLL.
2. Form and instructions enclosed: "Form LLL, Disclosure of Lobbying Activities" must be submitted by those receiving more than \$100,000 in federal funds, to disclose any lobbying of federal entities (a) with profits from federal contracts or (b) funded with nonfederal funds.
3. Form and summary of Act enclosed: Sub-recipients of federal funds on any level must complete a "Certification Regarding Environmental Tobacco Smoke," required by Public Law 103-227, the Pro-Children Act of 1994. Such law prohibits smoking in any portion of any indoor facility owned or leased or contracted for regular provision of health, day care, early childhood development, education, or library services for children under the age of 18. Such language must be included in the conditions of award (they are included in the certification, which may be part of such conditions.) This does not apply to those solely receiving Medicaid or Medicare, or facilities where WIC coupons are redeemed.
4. In addition, federal law requires that:
  - A) OMB Circular A-133, Audits of States, Local Governments and Non-Profit Organizations requires that grantees (both recipients and sub-recipients) which expend a total of \$300,000 or more (*\$500,000 for fiscal years ending after December 31, 2003*) in federal assistance shall have a single or program-specific audit conducted for that year in accordance with the provisions of the Single Audit Act of 1984, P.L. 98-502, and the Single Audit Act Amendments of 1996, P.L. 104-156 and the Office of Management and Budget (OMB) Circular A-133. All sub-grantee audit reports, performed in compliance with the aforementioned Circular shall be forwarded within 30 days of report issuance to the DHMH, External Audit Division, Spring Grove Hospital-Tuerk Bldg., 55 Wade Avenue, Baltimore, MD 21228.
  - B) All sub-recipients of federal funds comply with Sections 503 and 504 of the Rehabilitation Act of 1973, the conditions of which are summarized in item (C).
  - C) Recipients of \$10,000 or more (on any level) must include in their contract language the requirements of Sections 503 (language specified) and 504 referenced in item (B).

Section 503 of the Rehabilitation Act of 1973, as amended, requires recipients to take affirmative action to employ and advance in employment qualified disabled people. An affirmative action program must be prepared and maintained by all contractors with 50 or more employees and one or more federal contracts of \$50,000 or more.

This clause must appear in subcontracts of \$10,000 or more:

- a) The contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based

upon their physical or mental handicap in all upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

- b) The contractor agrees to comply with the rules, regulations, and relevant orders of the secretary of labor issued pursuant to the act.
- c) In the event of the contractor's non-compliance with the requirements of this clause, actions for non-compliance may be taken in accordance with the rules, regulations and relevant orders of the secretary of labor issued pursuant to the act.
- d) The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the director, provided by or through the contracting office. Such notices shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.
- e) The contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.
- f) The contractor will include the provisions of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations, or orders of the [federal] secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for non-compliance.

Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. Sec. 791 et seq.) prohibits discrimination on the basis of handicap in all federally assisted programs and activities. It requires the analysis and making of any changes needed in three general areas of operation-programs, activities, and facilities and employment. It states, among other things, that:

*Grantees that provide health ... services should undertake tasks such as ensuring emergency treatment for the hearing impaired and making certain that persons with impaired sensory or speaking skills are not denied effective notice with regard to benefits, services, and waivers of rights or consents to treatments.*

- D) All sub-recipients comply with Title VI of the Civil Rights Act of 1964 that they must not discriminate in participation by race, color, or national origin.
- E) All sub-recipients of federal funds from SAMHSA (Substance Abuse and Mental Health Services Administration) or NIH (National Institute of Health) are prohibited from paying any direct salary at a rate more than Executive Level 1 per year. (This includes, but is not limited to, sub-recipients of the Substance Abuse Prevention and Treatment and the Community Mental Health Block Grants and NIH research grants.)
- F) There may be no discrimination on the basis of age, according to the requirements of the Age Discrimination Act of 1975.
- G) For any education program, as required by Title IX of the Education Amendments of 1972, there may be no discrimination on the basis of sex.

- H) For research projects, a form for Protection of Human Subjects (Assurance/ Certification/ Declaration) should be completed by each level funded, assuring that either: (1) there are no human subjects involved, or that (2) an Institutional Review Board (IRB) has given its formal approval before human subjects are involved in research. [This is normally done during the application process rather than after the award is made, as with other assurances and certifications.]
- I) In addition, there are conditions, requirements, and restrictions which apply only to specific sources of federal funding. These should be included in your grant/contract documents when applicable.

## U.S. Department of Health and Human Services

**CERTIFICATION REGARDING LOBBYING****Certification for Contracts, Grants, Loans, and Cooperative Agreements**

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Award No.	Organizational Entry
Name and Title of Official Signing for Organizational Entry	Telephone No. Of Signing Official
Signature of Above Official	Date Signed





## INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether sub-awardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. Section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or sub-award recipient. Identify the tier of the sub-awardee, e.g., the first sub-awardee of the prime is the 1st tier. Sub-awards include but are not limited to subcontracts, sub-grants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Sub-awardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.
10. (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form and print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

---

Public Health Service  
Health Resources and  
Service Administration  
Rockville, MD 20857

**CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE**

Public Law 103-227, also known as the Pro Children Act of 1994, Part C Environmental Tobacco Smoke, requires that smoking not be permitted in any portion of any indoor facility owned, or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated or maintained with such Federal funds. The law does not apply to children's services provided in private residences, portions of facilities used for inpatient drug or alcohol treatment, service providers whose sole sources of applicable Federal funds is Medicare or Medicaid, or facilities where WIC coupons are redeemed. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1000 for each violation and/or the imposition of an administrative compliance order on the responsible entity.

By signing this certification, the offeror/contractor (for acquisitions) or applicant/grantee (for grants) certifies that the submitting organization will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act.

The submitting organization further agrees that it will require the language of this certification be included in any sub-awards which contain provisions for children's services and that all sub-recipients shall certify accordingly.

---

Signature of Authorized Certifying Individual

## ATTACHMENT I – CONFLICT OF INTEREST AFFIDAVIT AND DISCLOSURE

**Reference COMAR 21.05.08.08**

**(submit with Bid/Proposal)**

A. "Conflict of interest" means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the State, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.

B. "Person" has the meaning stated in COMAR 21.01.02.01B(64) and includes a Bidder/Offeror, Contractor, consultant, or subcontractor or sub-consultant at any tier, and also includes an employee or agent of any of them if the employee or agent has or will have the authority to control or supervise all or a portion of the work for which a Bid/Proposal is made.

C. The Bidder/Offeror warrants that, except as disclosed in §D, below, there are no relevant facts or circumstances now giving rise or which could, in the future, give rise to a conflict of interest.

D. The following facts or circumstances give rise or could in the future give rise to a conflict of interest (explain in detail—attach additional sheets if necessary):

E. The Bidder/Offeror agrees that if an actual or potential conflict of interest arises after the date of this affidavit, the Bidder/Offeror shall immediately make a full disclosure in writing to the procurement officer of all relevant facts and circumstances. This disclosure shall include a description of actions which the Bidder/Offeror has taken and proposes to take to avoid, mitigate, or neutralize the actual or potential conflict of interest. If the contract has been awarded and performance of the contract has begun, the Contractor shall continue performance until notified by the procurement officer of any contrary action to be taken.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date:\_\_\_\_\_ By:\_\_\_\_\_  
(Authorized Representative and Affiant)

## ATTACHMENT J – NON-DISCLOSURE AGREEMENT

THIS NON-DISCLOSURE AGREEMENT (“Agreement”) is made by and between the State of Maryland (the “State”), acting by and through its Department of Health and Mental Hygiene (the “Department”), and \_\_\_\_\_ ( the “Contractor”).

### RECITALS

**WHEREAS**, the Contractor has been awarded a contract (the “Contract”) following the solicitation for *“Women, Infants and Children (WIC) Program Local Agency for Targeted Areas in Prince Georges County”* Solicitation # DHMH OPASS 14-13398; and

**WHEREAS**, in order for the Contractor to perform the work required under the Contract, it will be necessary for the State at times to provide the Contractor and the Contractor’s employees, agents, and subcontractors (collectively the “Contractor’s Personnel”) with access to certain information the State deems confidential information (the “Confidential Information”).

**NOW, THEREFORE**, in consideration of being given access to the Confidential Information in connection with the IFB and the Contract, and for other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties do hereby agree as follows:

1. Confidential Information means any and all information provided by or made available by the State to the Contractor in connection with the Contract, regardless of the form, format, or media on or in which the Confidential Information is provided and regardless of whether any such Confidential Information is marked as such. Confidential Information includes, by way of example only, information that the Contractor views, takes notes from, copies (if the State agrees in writing to permit copying), possesses or is otherwise provided access to and use of by the State in relation to the Contract.
2. Contractor shall not, without the State’s prior written consent, copy, disclose, publish, release, transfer, disseminate, use, or allow access for any purpose or in any form, any Confidential Information provided by the State except for the sole and exclusive purpose of performing under the Contract. Contractor shall limit access to the Confidential Information to the Contractor’s Personnel who have a demonstrable need to know such Confidential Information in order to perform under the Contract and who have agreed in writing to be bound by the disclosure and use limitations pertaining to the Confidential Information. The names of the Contractor’s Personnel are attached hereto and made a part hereof as ATTACHMENT J-1. Contractor shall update ATTACHMENT J-1 by adding additional names (whether Contractor’s personnel or a subcontractor’s personnel) as needed, from time to time.
3. If the Contractor intends to disseminate any portion of the Confidential Information to non-employee agents who are assisting in the Contractor’s performance of the IFB or who will otherwise have a role in performing any aspect of the IFB, the Contractor shall first obtain the written consent of the State to any such dissemination. The State may grant, deny, or condition any such consent, as it may deem appropriate in its sole and absolute subjective discretion.
4. Contractor hereby agrees to hold the Confidential Information in trust and in strictest confidence, to adopt or establish operating procedures and physical security measures, and to take all other measures necessary to protect the Confidential Information from inadvertent release or disclosure to unauthorized third parties and to prevent all or any portion of the Confidential Information from falling into the public domain or into the possession of persons not bound to maintain the confidentiality of the Confidential Information.
5. Contractor shall promptly advise the State in writing if it learns of any unauthorized use, misappropriation, or disclosure of the Confidential Information by any of the Contractor’s Personnel or the Contractor’s former Personnel. Contractor shall, at its own expense, cooperate with the State in seeking injunctive or other equitable relief against any such person(s).

6. Contractor shall, at its own expense, return to the Department, all copies of the Confidential Information in its care, custody, control or possession upon request of the Department or on termination of the Contract.
7. A breach of this Agreement by the Contractor or by the Contractor's Personnel shall constitute a breach of the Contract between the Contractor and the State.
8. Contractor acknowledges that any failure by the Contractor or the Contractor's Personnel to abide by the terms and conditions of use of the Confidential Information may cause irreparable harm to the State and that monetary damages may be inadequate to compensate the State for such breach. Accordingly, the Contractor agrees that the State may obtain an injunction to prevent the disclosure, copying or improper use of the Confidential Information. The Contractor consents to personal jurisdiction in the Maryland State Courts. The State's rights and remedies hereunder are cumulative and the State expressly reserves any and all rights, remedies, claims and actions that it may have now or in the future to protect the Confidential Information and to seek damages from the Contractor and the Contractor's Personnel for a failure to comply with the requirements of this Agreement. In the event the State suffers any losses, damages, liabilities, expenses, or costs (including, by way of example only, attorneys' fees and disbursements) that are attributable, in whole or in part to any failure by the Contractor or any of the Contractor's Personnel to comply with the requirements of this Agreement, the Contractor shall hold harmless and indemnify the State from and against any such losses, damages, liabilities, expenses, and costs.
9. Contractor and each of the Contractor's Personnel who receive or have access to any Confidential Information shall execute a copy of an agreement substantially similar to this Agreement, in no event less restrictive than as set forth in this Agreement, and the Contractor shall provide originals of such executed Agreements to the State.
10. The parties further agree that:
  - a. This Agreement shall be governed by the laws of the State of Maryland;
  - b. The rights and obligations of the Contractor under this Agreement may not be assigned or delegated, by operation of law or otherwise, without the prior written consent of the State;
  - c. The State makes no representations or warranties as to the accuracy or completeness of any Confidential Information;
  - d. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement;
  - e. Signatures exchanged by facsimile are effective for all purposes hereunder to the same extent as original signatures;
  - f. The Recitals are not merely prefatory but are an integral part hereof; and
  - g. The effective date of this Agreement shall be the same as the effective date of the Contract entered into by the parties.

**IN WITNESS WHEREOF**, the parties have, by their duly authorized representatives, executed this Agreement as of the day and year first above written.

Contractor: \_\_\_\_\_

Maryland Department of Health and Mental Hygiene

By: \_\_\_\_\_(SEAL)

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## NON-DISCLOSURE AGREEMENT - ATTACHMENT J-1

**LIST OF CONTRACTOR'S EMPLOYEES AND AGENTS WHO WILL BE GIVEN ACCESS TO  
THE CONFIDENTIAL INFORMATION**

[illegible]

**NON-DISCLOSURE AGREEMENT – ATTACHMENT J-2**

**CERTIFICATION TO ACCOMPANY RETURN OF CONFIDENTIAL INFORMATION**

I AFFIRM THAT:

To the best of my knowledge, information, and belief, and upon due inquiry, I hereby certify that: (i) all Confidential Information which is the subject matter of that certain Non-Disclosure Agreement by and between the State of Maryland and

\_\_\_\_\_, 20\_\_\_\_ (“Contractor”) dated \_\_\_\_\_, 20\_\_\_\_ (“Agreement”) is attached hereto and is hereby returned to the State in accordance with the terms and conditions of the Agreement; and (ii) I am legally authorized to bind the Contractor to this affirmation.

**I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, HAVING MADE DUE INQUIRY.**

DATE: \_\_\_\_\_

NAME OF CONTRACTOR: \_\_\_\_\_

BY: \_\_\_\_\_  
(Signature)

TITLE: \_\_\_\_\_  
(Authorized Representative and Affiant)

Rev. 3/11/2013

## ATTACHMENT K – HIPAA BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (the “Agreement”) is made by and between the Maryland WIC Program, a unit of the Maryland Department of Health and Mental Hygiene (herein referred to as “Covered Entity”), and \_\_\_\_\_ (hereinafter known as “Business Associate”). Covered Entity and Business Associate shall collectively be known herein as the “Parties.”

WHEREAS, Covered Entity have a business relationship with Business Associate that is memorialized in a separate agreement (the “Underlying Agreement”) pursuant to which Business Associate may be considered a “business associate” of Covered Entity as defined in the Health Insurance Portability and Accountability Act of 1996 including all pertinent regulations (45 C.F.R. Parts 160 and 64), as amended from time to time, issued by the U.S. Department of Health and Human Services as either have been amended by Subtitle D of the Health Information Technology for Economic and Clinical Health Act (the “HITECH Act”), as Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5) (collectively, “HIPAA”); and

WHEREAS, the nature of the contractual relationship between Covered Entity and Business Associate may involve the exchange of Protected Health Information (“PHI”) as that term is defined under HIPAA; and

WHEREAS, for good and lawful consideration as set forth in the Underlying Agreement, Covered Entity and Business Associate enter into this agreement for the purpose of ensuring compliance with the requirements of HIPAA and the Maryland Confidentiality of Medical Records Act (Md. Code Ann., Health-General §§4-301 *et seq.*) (“MCMRA”); and

WHEREAS, this Agreement supersedes and replaces any and all Business Associate Agreements the Covered Entity and Business Associate may have entered into prior to the date hereof;

NOW THEREFORE, the premises having been considered and with acknowledgment of the mutual promises and of other good and valuable consideration herein contained, the Parties, intending to be legally bound, hereby agree as follows:

### I. DEFINITIONS.

- A. Individual. “Individual” shall have the same meaning as the term “individual” in 45 C.F.R. §164.501 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. §164.502(g).
- B. Breach. “Breach” shall have the same meaning as the term “breach” in 45 C.F.R. § 164.402.
- C. Designated Record Set. “Designated Record Set” shall have the same meaning as the term “designated record set” in 45 C.F.R. §164.501.
- D. Privacy Rule. “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Part 160 and Part 164, Subparts A and E.
- E. Protected Health Information or PHI. “Protected Health Information” or “PHI” shall have the same meaning as the term “protected health information” in 45 C.F.R. §164.501, limited to the information created or received by Business Associate from or on behalf of Covered Entity
- F. Required By Law. “Required By Law” shall have the same meaning as the term “required by law” in 45 C.F.R. §164.501.



- G. Secretary. “Secretary” shall mean the Secretary of the U.S. Department of Health and Human Services or his or her designee.
- H. Unsecured Protected Health Information. “Unsecured Protected Health Information” or “Unsecured PHI” shall mean PHI that is not secured through the use of a technology or methodology specified by the Secretary in guidance or as otherwise defined in the §13402(h) of the HITECH Act.

## **II. USE OR DISCLOSURE OF PHI BY BUSINESS ASSOCIATE.**

- A. Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Underlying Agreement, provided that such use or disclosure would not violate the Privacy Rule.
- B. Business Associate shall only use and disclose PHI if such use or disclosure complies with each applicable requirement of 45 C.F.R. §164.504(e).
- C. Business Associate shall be directly responsible for full compliance with the relevant requirements of the Privacy Rule to the same extent as Covered Entity.

## **III. DUTIES OF BUSINESS ASSOCIATE RELATIVE TO PHI.**

- A. Business Associate shall not use or disclose PHI other than as permitted or required by this Agreement, the MCMRA, or as Required By Law.
- B. Business Associate shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic PHI that it creates, receives, maintains, or transmits on behalf of Covered Entity.
- C. Business Associate shall immediately notify Covered Entity of any use or disclosure of PHI in violation of this Agreement
- D. In addition to its obligations in Section III.C, Business Associate shall document and notify Covered Entity of a Breach of Unsecured PHI. Business Associate’s notification to Covered Entity hereunder shall:
  - 1. Be made to Covered Entity without unreasonable delay and in no case later than fifty (50) calendar days after the incident constituting the Breach is first known, except where a law enforcement official determines that a notification would impede a criminal investigation or cause damage to national security. For purposes of clarity for this Section III.D.1, Business Associate must notify Covered Entity of an incident involving the acquisition, access, use or disclosure of PHI in a manner not permitted under 45 C.F.R. Part E within fifty (50) calendar days after an incident even if Business Associate has not conclusively determined within that time that the incident constitutes a Breach as defined by HIPAA;
  - 2. Include the names of the Individuals whose Unsecured PHI has been, or is reasonably believed to have been, the subject of a Breach;
  - 3. Be in substantially the same form as ATTACHMETN K-1 hereto; and
  - 4. Include a draft letter for the Covered Entity to utilize to notify the Individuals that their Unsecured PHI has been, or is reasonably believed to have been, the subject of a Breach that includes, to the extent possible:

- a) A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;
  - b) A description of the types of Unsecured PHI that were involved in the Breach (such as full name, Social Security number, date of birth, home address, account number, disability code, or other types of information that were involved);
  - c) Any steps the Individuals should take to protect themselves from potential harm resulting from the Breach;
  - d) A brief description of what the Covered Entity and the Business Associate are doing to investigate the Breach, to mitigate losses, and to protect against any further Breaches; and
  - e) Contact procedures for Individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, website, or postal address.
- E. In the event of an unauthorized use or disclosure of PHI or a Breach of Unsecured PHI, Business Associate shall mitigate, to the extent practicable, any harmful effects of said disclosure that are known to it.
- F. Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Business Associate on behalf of Covered Entity agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.
- G. To the extent applicable, Business Associate shall provide access to PHI in a Designated Record Set at reasonable times, at the request of Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 C.F.R. §164.524.
- H. To the extent applicable, Business Associate shall make any amendment(s) to PHI in a Designated Record Set that Covered Entity directs or agrees to pursuant to 45 C.F.R. §164.526 at the request of Covered Entity or an Individual.
- I. Business Associate shall, upon request with reasonable notice, provide Covered Entity access to its premises for a review and demonstration of its internal practices and procedures for safeguarding PHI.
- J. Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for a Covered Entity to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. §164.528. Should an individual make a request to Covered Entity for an accounting of disclosures of his or her PHI pursuant to 45 C.F.R. §164.528, Business Associate agrees to promptly provide Covered Entity with information in a format and manner sufficient to respond to the individual's request.
- K. Business Associate shall, upon request with reasonable notice, provide Covered Entity with an accounting of uses and disclosures of PHI provided to it by Covered Entity.
- L. Business Associate shall make its internal practices, books, records, and any other material requested by the Secretary relating to the use, disclosure, and safeguarding of PHI received from Covered Entity available to the Secretary for the purpose of determining compliance with the Privacy Rule. The aforementioned information shall be made available to the Secretary in the manner and place as designated by the Secretary or the Secretary's duly appointed delegate. Under this Agreement, Business Associate shall comply and cooperate with any request for documents or other information from the Secretary directed to Covered Entity that seeks documents or other information held by Business Associate.

- M. Business Associate may use PHI to report violations of law to appropriate Federal and State authorities, consistent with 42 C.F.R. §164.502(j)(1).
- N. Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration of Business Associate, provided that disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

#### IV. TERM AND TERMINATION.

- A. Term. The Term of this Agreement shall be effective as of the effective date of the Contract entered into following the solicitation for ***“Women, Infants, and Children (WIC) Program Local Agency for Targeted Areas in Prince Georges County,”*** Solicitation # DHMH OPASS 14-13398, and shall terminate when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section IV.
- B. Termination for Cause. Upon Covered Entity’s knowledge of a material breach of this Agreement by Business Associate, Covered Entity shall:
  - 1. Provide an opportunity for Business Associate to cure the breach or end the violation and, if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity, terminate this Agreement;
  - 2. Immediately terminate this Agreement if Business Associate has breached a material term of this Agreement and cure is not possible; or
  - 3. If neither termination nor cure is feasible, report the violation to the Secretary.
- C. Effect of Termination.
  - 1. Except as provided in paragraph C(2) of this section, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall not retain any copies of the PHI.
  - 2. In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity written notification of the conditions that make return or destruction infeasible. After written notification that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.
  - 3. Should Business Associate make an intentional or grossly negligent Breach of PHI in violation of this Agreement or HIPAA or an intentional or grossly negligent disclosure of information protected by the MCMRA, Covered Entity shall have the right to immediately terminate any contract, other than this Agreement, then in force between the Parties, including the Underlying Agreement.

**V. CONSIDERATION.** Business Associate recognizes that the promises it has made in this Agreement shall, henceforth, be detrimentally relied upon by Covered Entity in choosing to continue or commence a business relationship with Business Associate.

**VI. REMEDIES IN EVENT OF BREACH.** Business Associate hereby recognizes that irreparable harm will result to Covered Entity, and to the business of Covered Entity, in the event of breach by Business Associate of any of the covenants and assurances contained in this Agreement. As such, in the event of breach of any of the covenants and assurances contained in Sections II or III above, Covered Entity shall be entitled to enjoin and restrain Business Associate from any continued violation of Sections II or III. Furthermore, in the event of breach of Sections II or III by Business Associate, Covered Entity is entitled to reimbursement and indemnification from Business Associate for Covered Entity's reasonable attorneys' fees and expenses and costs that were reasonably incurred as a proximate result of Business Associate's breach. The remedies contained in this Section VI shall be in addition to (and not supersede) any action for damages and/or any other remedy Covered Entity may have for breach of any part of this Agreement.

**VII. MODIFICATION; AMENDMENT.** This Agreement may only be modified or amended through a writing signed by the Parties and, thus, no oral modification or amendment hereof shall be permitted. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Rule and HIPAA.

**VIII. INTERPRETATION OF THIS AGREEMENT IN RELATION TO OTHER AGREEMENTS BETWEEN THE PARTIES.** Should there be any conflict between the language of this Agreement and any other contract entered into between the Parties (either previous or subsequent to the date of this Agreement), the language and provisions of this Agreement shall control and prevail unless the Parties specifically refer in a subsequent written agreement to this Agreement by its title and date and specifically state that the provisions of the later written agreement shall control over this Agreement.

**IX. COMPLIANCE WITH STATE LAW.** The Business Associate acknowledges that by accepting the PHI from Covered Entity, it becomes a holder of medical records information under the MCMRA and is subject to the provisions of that law. If the HIPAA Privacy or Security Rules and the MCMRA conflict regarding the degree of protection provided for protected health information, Business Associate shall comply with the more restrictive protection requirement.

**X. MISCELLANEOUS.**

- A. Ambiguity. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy Rule.
- B. Regulatory References. A reference in this Agreement to a section in the Privacy Rule means the section as in effect or as amended.
- C. Notice to Covered Entity. Any notice required under this Agreement to be given Covered Entity shall be made in writing to:

Ramiek James, Privacy Officer  
Department of Health and Mental Hygiene  
Office of the Inspector General  
201 W. Preston Street, 5th Floor  
Baltimore, MD 21201  
Phone: (410) 767-5411

- D. Notice to Business Associate. Any notice required under this Agreement to be given Business Associate shall be made in writing to:

Address: \_\_\_\_\_

Attention: \_\_\_\_\_

Phone: \_\_\_\_\_

IN WITNESS WHEREOF and acknowledging acceptance and agreement of the foregoing, the Parties affix their signatures hereto.

**COVERED ENTITY:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**BUSINESS ASSOCIATE:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**NOTIFICATION TO THE  
MARYLAND DEPARTMENT OF HEALTH AND MENTAL HYGIENE  
ABOUT A BREACH OF UNSECURED PROTECTED HEALTH INFORMATION**

This notification is made pursuant to the Business Associate Agreement between the “*Maryland WIC Program*,” a unit of the Maryland Department of Health and Mental Hygiene (DHMH), and \_\_\_\_\_ (Business Associate).

Business Associate hereby notifies DHMH that there has been a breach of unsecured (unencrypted) protected health information (PHI) that Business Associate has used or has had access to under the terms of the Business Associate Agreement.

Description of the breach: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date of the breach: \_\_\_\_\_

Date of discovery of the breach: \_\_\_\_\_

Does the breach involve 500 or more individuals? Yes / No

If yes, do the people live in multiple states? Yes / No

Number of individuals affected by the breach: \_\_\_\_\_.

Names of individuals affected by the breach: (attach list)

The types of unsecured PHI that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code): \_\_\_\_\_  
\_\_\_\_\_

Description of what Business Associate is doing to investigate the breach, to mitigate losses, and to protect against any further breaches: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Contact information to ask questions or learn additional information:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

## ATTACHMENT L – MERCURY AFFIDAVIT

### MERCURY AFFIDAVIT

(submit with Bid/Proposal)

#### AUTHORIZED REPRESENTATIVE THEREBY AFFIRM THAT:

I, \_\_\_\_\_ (name of affiant) am the  
\_\_\_\_\_ (title) and the duly authorized representative of  
\_\_\_\_\_ (name of the business). I possess  
the legal authority to make this affidavit on behalf of myself and the business for which I am acting.

#### MERCURY CONTENT INFORMATION:

☐ The product(s) offered do not contain mercury.

OR

☐ The product(s) offered do contain mercury.

In an attachment to this Mercury Affidavit:

- (1) Describe the product or product component that contains mercury.
- (2) Provide the amount of mercury that is contained in the product or product component. Indicate the unit of measure being used.

**I ACKNOWLEDGE THAT** this affidavit is to be furnished to the procurement officer and may be distributed to units of (1) the State of Maryland; (2) counties or other subdivisions of the State of Maryland; (3) other states; and (4) the federal government. I further acknowledge that this Affidavit is subject to applicable laws of the United States and the State of Maryland, both criminal and civil, and that nothing in this affidavit or any contract resulting from the submission of this Bid/Proposal shall be construed to supersede, amend, modify, or waive, on behalf of the State of Maryland, or any unit of the State of Maryland having jurisdiction, the exercise of any statutory right or remedy conferred by the Constitution and the laws of Maryland with respect to any misrepresentation made or any violation of the obligations, terms and covenants undertaken by the above business with respect to (1) this affidavit, (2) the contract, and (3) other affidavits comprising part of the contract.

**I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.**

\_\_\_\_\_  
Date

By: \_\_\_\_\_  
Signature

Print Name: \_\_\_\_\_  
Authorized Representative and Affiant

**ATTACHMENT M – VETERAN-OWNED SMALL BUSINESS ENTERPRISE**

This solicitation does not include a Veteran-Owned Small Business Enterprise goal.



**ATTACHMENT N – CERTIFICATION REGARDING INVESTMENTS IN IRAN**

**CERTIFICATION REGARDING INVESTMENTS IN IRAN**

**(submit with Bid/Proposal)**

I, \_\_\_\_\_ (print name), possess the legal authority to make this Certification.

Pursuant to Md. Ann. Code, State Finance and Procurement Article, §§ 17-701 through 17-707, and in conjunction with the Bid or Proposal submitted in response to Solicitation No. 14-13398, the following certifications are hereby made:

1. The Bidder/Offeror is **not** identified on the list created by the Board of Public Works as a person engaging in investment activities in Iran as described in Md. Ann. Code, State Finance and Procurement Article § 17-702; and

2. The Bidder/Offeror is **not** engaging in investment activities in Iran as described in Md. Ann. Code, State Finance and Procurement Article § 17-702.

3. If the Bidder/Offeror is unable to make the certifications listed in paragraphs 1 and 2 above, the Bidder/Offeror shall provide a detailed description of the Bidder/Offeror's investment activities in Iran (attach additional pages if necessary):

---

---

---

---

---

---

---

---

I do solemnly declare and affirm under the penalties of perjury that the contents of this certification are true and correct to the best of my knowledge, information, and belief.

Date: \_\_\_\_\_

Bidder/Offeror Name: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**ATTACHMENT O – LOCATION OF THE PERFORMANCE OF SERVICES DISCLOSURE**

**(submit with Bid/Proposal)**

Pursuant to Md. Ann. Code, State Finance and Procurement Article, § 12-111, and in conjunction with the Bid/Proposal submitted in response to Solicitation No. \_\_\_\_\_, the following disclosures are hereby made:

1. At the time of Bid/Proposal submission, the Bidder/Offeror and/or its proposed subcontractors:  
\_\_\_\_ have plans  
\_\_\_\_ have **no** plans

to perform any services required under the resulting Contract outside of the United States.

2. If services required under the contract are anticipated to be performed outside the United States by either the Bidder/Offeror or its proposed subcontractors, the Bidder/Offeror shall answer the following (attach additional pages if necessary):

- a. Location(s) services will be performed:

---

---

---

- b. Reasons why it is necessary or advantageous to perform services outside the United States:

---

---

---

---

The undersigned, being an authorized representative of the Bidder/Offeror, hereby affirms that the contents of this disclosure are true to the best of my knowledge, information, and belief.

Date: \_\_\_\_\_

Bidder/Offeror Name: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Please be advised that the Department may contract for services provided outside of the United States if: the services are not available in the United States; the price of services in the United States exceeds by an unreasonable amount the price of services provided outside the United States; or the quality of services in the United States is substantially less than the quality of comparably priced services provided outside the United States.

**ATTACHMENT P – DHR HIRING AGREEMENT**

**MARYLAND DEPARTMENT OF HUMAN RESOURCES  
HIRING AGREEMENT**

This Hiring Agreement (“Agreement”) is effective this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ and is entered into by and between the Maryland Department of Human Resources (“Department”) and \_\_\_\_\_ (the “Contractor”) pursuant to State Finance Procurement Article, § 13-224, Annotated Code of Maryland, arising out of a Contract for services between Contractor and \_\_\_\_\_ (“Entity”), contract number \_\_\_\_\_ (“Procurement Contract”).

**WITNESSETH:**

WHEREAS, the Department has identified the Procurement Contract as eligible for execution of this Agreement; and,

WHEREAS, the Contractor and the Entity, have discussed and reviewed an inventory of job openings that exists or the Contractor is likely to fill during the term of the Procurement Contract in the State of Maryland; and

WHEREAS, the Contractor, Department and the Entity have discussed and reviewed the job descriptions, locations, and skill requirements for those positions; and

WHEREAS, the Department and the Entity have identified and discussed with the Contractor the workforce related benefits and support services available to the Contractor as a result of the Agreement including:

- Medicaid coverage for the employee and the employee’s dependents for up to one year after placement in the job;
- Maryland Children’s Health Program (MCHP) medical coverage for the employee’s dependents after one year of employment for as long as eligibility is met;
- Food Stamps for the employee and the employee’s dependents for as long as eligibility requirements are met;
- Child Care subsidies for the employee’s dependents for up to one year after employment as long as eligibility requirements are met;
- Transportation subsidies for the employee for a period of time after employment;
- Other Retention services including counseling on an as needed basis; and
- Assistance with claiming tax credits for hiring Candidates.

WHEREAS, the Contractor and Department agree to work cooperatively to develop responses to the workforce development requirements faced by the Contractor and to promote the hiring of the Department’s current and former Family Investment Program (“FIP”) recipients, their children, foster youth, and child support obligors (“Candidates”) by the Contractor.

NOW THEREFORE, upon valuable consideration received, the Contractor and the Department specifically agree as follows:

**A. The CONTRACTOR will:**

1. Notify the Department of all job openings that exists or result from the Procurement Contract.
2. Declare the Department the “first source” in identifying and hiring Candidates for those openings.
3. Work with Department as necessary and appropriate, to develop necessary training programs which enable Candidates to qualify for and secure the jobs.
4. Give first preference and first consideration, to the extent permitted by law and any existing labor agreements, to Candidates the Department refers.
5. Agree to give Candidates referred to the Contractor by the Department priority in the filling of a job opening so long as the Candidate meets the qualifications of the position and the Department refers qualified Candidates within three (3) working days.
6. Provide the DEPARTMENT with feedback regarding the disposition of referrals made, to include an explanation of why any such Candidate was not hired or considered qualified.
7. Designate this individual to be the specific contact person:

---

Name

---

Address

---

Telephone #

---

Fax #

---

e-Mail

who will:

- provide additional information regarding ‘first source’ jobs and clarify their requirements;
- receive Department referrals, and
- provide feedback to a Department account representative upon request regarding the dispositions of those referrals as well as the progress/employment status of those Candidates hired by the Contractor.

**B. The Department will designate an account representative who will:**

1. Process all the Contractor’s job notices in accordance with this “Agreement”.
1. Refer screened and qualified Candidates to the Contractor’s designated contact person.
2. Make referrals in a timely manner, that is, within three (3) working days after receiving the Contractor’s job opening notices.
4. Assist in the development of any mutually agreed upon training and/or internship programs that will better prepare Candidates for employment with the Contractor.
5. Provide follow-up and post hire transitional/supportive services, (e.g. Medicaid, MCHP, Food Stamps, child care, transportation, retention counseling, and access to tax credits) as necessary and appropriate.

6. Insure that the Contractor is advised of available subsidies and provide any assistance to the Contractor to obtain those subsidies.
7. Report the Contractor to the procurement Entity if the Contractor does not fulfill its responsibilities in accordance with this Agreement.
8. Review and evaluate the effectiveness of this undertaking with the Contractor and make modifications as necessary and appropriate.

**C. DISCLAIMERS**

Nothing in this Agreement shall cause the Contractor, except as explicitly provided in Section A above, to alter existing hiring practices or to hire an individual into a position for which he/she is not qualified.

**D. NON-DISCRIMINATION**

The Contractor agrees that there shall be no discrimination against any employee or Candidate for employment because of race, color, sex, religion, national origin, age, sexual preference, disability or any other factor specified in Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1983 and subsequent amendments and that they will comply with all other pertinent federal and State laws regarding discrimination.

**E. MARYLAND LAW PREVAILS**

The place of performance of this Agreement shall be the State of Maryland. This Agreement shall be construed, interpreted, and enforced according to the laws and regulations of the State of Maryland, including approval of the Board of Public Works where appropriate.

**F. EFFECTIVE DATE**

This Agreement shall take effect on the date of the aforementioned Procurement Contract, which is for the period \_\_\_\_\_ through \_\_\_\_\_, and it shall remain in effect for the duration of the Procurement Contract, including any option periods or extensions.

IN WITNESS, WHEREOF, the Contractor and the Department have affixed their signatures below:

**FOR THE CONTRACTOR:**

\_\_\_\_\_  
**SIGNATURE**

\_\_\_\_\_  
**TITLE**

\_\_\_\_\_  
**DATE**

**FOR THE DEPARTMENT**

\_\_\_\_\_  
**SIGNATURE**

**Hiring Agreement Coordinator**  
**TITLE**

\_\_\_\_\_  
**DATE**

## ATTACHMENT Q - WIC PROGRAM REGULATIONS

WIC Consolidated Regulations 7 CFR 246

COMAR 10.54.01

Title 10 Department of Health and Mental Hygiene Subtitle 54 Special Supplemental Nutrition Program for Women, Infants and Children (WIC) Chapter 01: Eligibility, Participants, and Benefits

[Maryland COMAR](#)

COMAR 10.54.02

Title 10 Department of Health and Mental Hygiene Subtitle 54 Special Supplemental Nutrition Program for Women, Infants and Children (WIC) Chapter 02: Local Agency [Maryland COMAR](#)

COMAR 10.54.03

Title 10 Department of Health and Mental Hygiene Subtitle 54 Special Supplemental Nutrition Program for Women, Infants and Children (WIC) Chapter 03: Retail Food and Pharmacy

[Maryland COMAR](#)

COMAR 10.01.06

Title 10 Department of Health and Mental Hygiene Subtitle 01 Procedures Chapter 06: Fair Hearing Appeals under the Special Supplemental Food Program for Women, Infants, and Children (WIC)

[Maryland COMAR](#)

## **ATTACHMENT R - LOCAL AGENCY PROCEDURE MANUAL**

The Local Agency Procedure Manual is incorporated into the Contract by reference and a CD with the manual may be obtained by contacting Gene Nadolny at 410-767-5239.

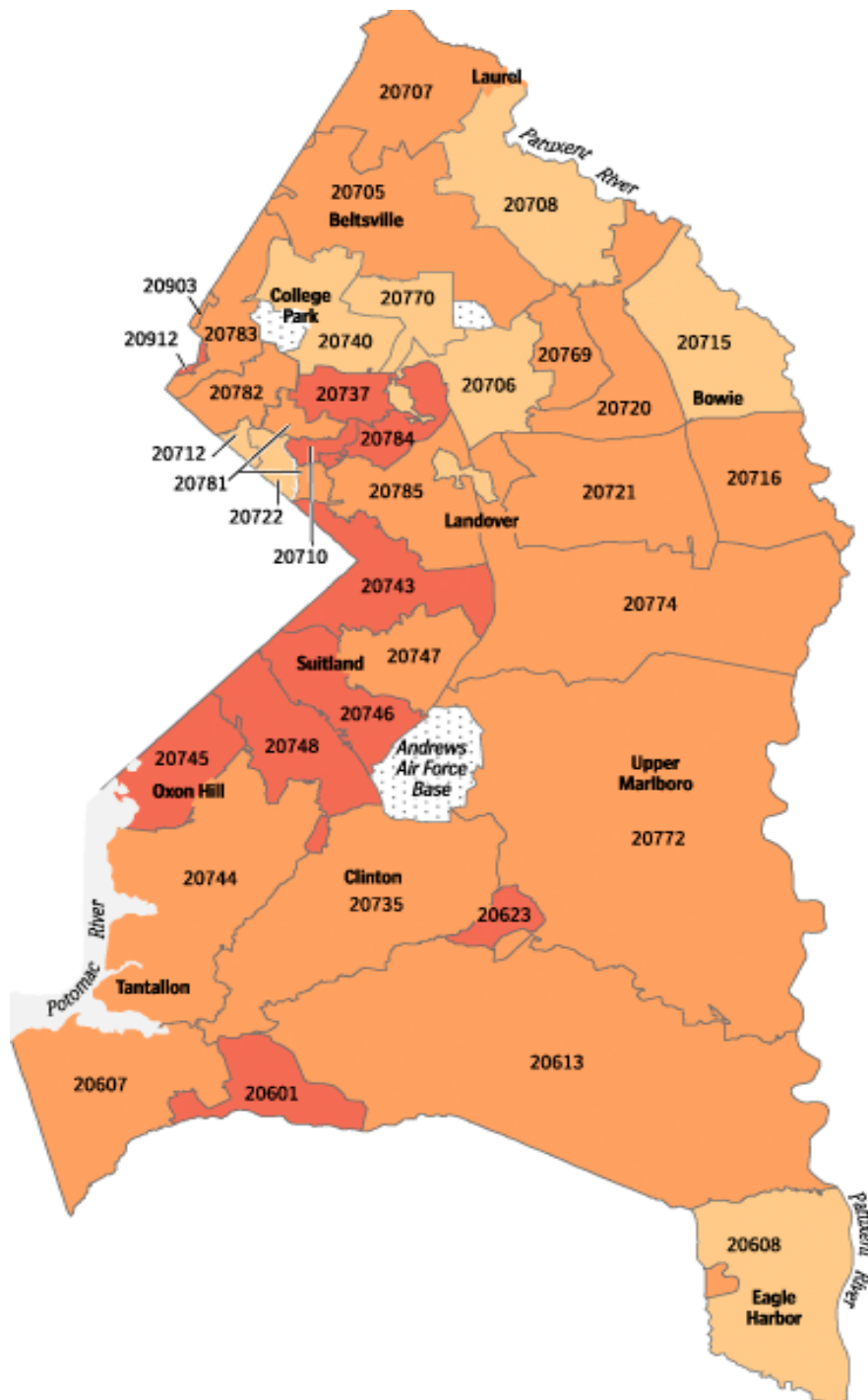
<b>ATTACHMENT S - PRINCE GEORGES COUNTY CLINICS</b>
---

The Department is looking to serve potential participants in the following areas.

<b>LOCATION</b>	<b>SERVING ZIP CODES</b>	<b>APPROXIMATE ENROLLMENT</b>
Brandywine	20601, 20607, 20613, 20735 and 20744	300
Oxon Hill	20744, 20745, and 20748	2,100
Walker Mill	20743, 20746, 20747, and 20785	2,800



## ATTACHMENT T - PRINCE GEORGE'S COUNTY ZIP CODES



**ATTACHMENT U - WIC CLINIC PROTOTYPES**

<b>Large Size Clinic 4,000 to 6,000 Participants Minimum Recommended Space</b>			
Functional Space	Number of Spaces Needed	Space in Square Feet	Total Square Feet
<b>PRIMARY FUNCTIONS</b>			
Waiting Room	1	300	300
Play Area	1	100	100
Certification Room	6	80	480
Health Evaluation	3	100	300
Group Nutrition Education	1	300	300
Individual Nutrition Counseling	3	100	300
Check Distribution Space	1	160	160
Storage	1	50	50
SUB TOTAL			2,090
<b>SECONDARY FUNCTIONS</b>			
Reception	1	100	100
Staff Restroom	1	25	25
Handicapped Restroom	1	35	35
Client Restroom	2	25	50
SUBTOTAL			210
FUNCTIONAL SPACE SUBTOTAL			2,300
35% Grossing Factor			805
<b>TOTAL GROSS AREA – (Minimum Recommended)</b>			<b>3,105</b>

**ATTACHMENT U (1) - (Con't) WIC CLINIC PROTOTYPES**

<b>Medium Size Clinic 2,000 to 4,000 Participants Minimum Recommended Space</b>			
Functional Space	Number of Spaces Needed	Area of Space in Square Feet	Total Square Feet
<b>PRIMARY FUNCTIONS</b>			
Waiting Room	1	300	300
Play Area	1	100	100
Certification Room	4	80	320
Health Evaluation	2	100	300
Group Nutrition Education	1	300	300
Individual Nutrition Counseling	2	100	200
Check Distribution Space	1	100	100
Storage	1	20	20
SUB TOTAL			1,540
<b>SECONDARY FUNCTIONS</b>			
Reception	1	100	100
Staff Restroom	1	25	25
Handicapped Restroom	1	35	35
Client Restroom	1	25	25
SUBTOTAL			185
FUNCTIONAL SPACE SUBTOTAL			1,725
35% Grossing Factor			605
<b>TOTAL GROSS AREA (Minimum Recommended)</b>			<b>2,330</b>

**ATTACHMENT U (2) - (Con't) WIC CLINIC PROTOTYPES**

<b>Small Size Clinic Up to 2,000 Participants Minimum Recommended Space</b>			
Functional Space	Number of Spaces Needed	Area of Space in Square Feet	Total Square Feet
<b>PRIMARY FUNCTIONS</b>			
Waiting Room	1	300	300
Play Area	1	100	100
Certification Room	2	80	160
Health Evaluation	1	100	100
Group Nutrition Education	1	300	300
Individual Nutrition Counseling	1	100	100
Check Distribution Space	1	100	100
Storage	1	15	15
SUB TOTAL			1,175
<b>SECONDARY FUNCTIONS</b>			
Reception	1	100	100
Staff Restroom	1	25	25
Handicapped Restroom	1	35	35
SUBTOTAL			160
FUNCTIONAL SPACE SUBTOTAL			1,335
35% Grossing Factor			435
<b>TOTAL AREA (Minimum Recommended)</b>			<b>1,770</b>

## ATTACHMENT V - CONDITIONS OF AWARD

### FEDERAL CONDITIONS

1. Form and rule enclose: Section 319, P.L. 101-121 (31 U.S.C. section 1352) requires that all *prospective* and present subgrantees (this include all levels of funding) who receive more than \$100,000 in federal funds must submit the form "Certification Regarding Lobbying." It assures, generally, that recipients will not lobby federal entities with federal funds, and that, as is required, they will disclose otherwise funded lobbying on form SF-LLL.
2. Form and instructions enclosed: "Form LLL, Disclosure of Lobbying Activities" must be submitted by those receiving more than \$100,00 in federal funds, to disclose any lobbying of federal entities (a) with profits from federal contracts or (b) funded with nonfederal funds.
3. Form and summary of Act enclosed: Subrecipients of federal funds on any level must complete a "Certification Regarding Environmental Tobacco Smoke," required by Public Law 103-227, the Pro-Children Act of 1994. Such law prohibits smoking in any portion of any indoor facility owned or leased or contracted for regular provision of health, day care, early childhood development, education or library services for children under the age of 18. Such language must be included in the conditions of award (they are included in the certification, which may be part of such conditions.) This does not apply to those solely receiving Medicaid or Medicare, of facilities where WIC checks are redeemed.
4. In addition, federal law requires that:
  - A) OMB Circular A-133, Audits of States, Local Governments and Non-Profit Organizations, requires that certain recipients of federal funds have an independent "single audit" prepared. The audit must qualify under the federal single audit standards.
  - B) All subrecipients of federal funds comply with Sections 503 and 504 of the Rehabilitation Act of 1973, the conditions of which are summarized in item (C).

Section 503 of the Rehabilitation Act of 1973, as amended, requires recipients to take affirmative action to employ and advance in employment qualified disabled people. An affirmative action program must be prepared and maintained by all contractors with 50 or more employees and one or more federal contracts of \$50,000 or more.

### **These clauses must appear in subcontracts of \$10,000 or more:**

- a) The contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

- b) The contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.
  - c) In the event of the contractor's non-compliance with the of this clause, actions for non-compliance may be taken in accordance with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the act.
  - d) The contract agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the director, provided by or through the contracting office. Such notices shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.
- e) The contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.
- f) The contractor will include the provisions of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations, or orders of the [federal] secretary issued pursuant to section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor.

The contractor will take such actions with respect to any subcontract or purchase order as the director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for non-compliance.

- D) All subrecipients comply with Title VI of the Civil Rights Act of 1964, that they must not discriminate by race, color, or national origin.
- E) All subrecipients of federal funds from SAMHSA (Substance Abuse and Mental Health Services Administration) or NIH (National Institute of Health) are prohibited from paying any direct salary at a rate in excess of Level 1 of the [federal] Executive Schedule. (This includes, but is not limited to, subrecipients of the Substance Abuse and Treatment and the Community Mental Health Block Grants and NIOH research grants.)
- F) There may be no discrimination on the basis of age, according to the requirements of the Age Discrimination Act of 1975.
- G) For any education program, as required by Title IX of the Education Amendments of 1972, there may be no discrimination on the basis of sex.
- H) For research projects, a form for Protection of Human Subjects (Assurance/Certification/Declaration) should be completed by each level funded, assuring that either: (1) there are no human subjects involved, or that (2) an Institutional Review Board (IRB) has given its formal approval before human subjects are involved in research, [This is normally done during the application process rather than after award is made, as with other assurances and certification.]

I) Conditions, requirements, and restrictions which apply to specific sources of federal funding should be included in your award documents when applicable.

5. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. Sec. 791 et seq.) prohibits discrimination on the basis of handicap in all federal assisted programs and activities. It requires the analysis and making of any changes needed in three general areas of operation – programs, activities, and facilities and employment. It states, among other things, that:

*Grantees that provide health...services should undertake tasks such as ensuring emergency treatment for the hearing impaired and making certain that persons with impaired sensory or speaking skills are not denied effective notice with regard to benefits, services, and waivers of rights or consents to treatments.*

6. “When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with federal money”, the Department of Health and Human Services appropriations Act requires all recipients of Federal funds to acknowledge Federal funding involved. Such programs are required to “clearly state (1) the percentage of the total cost of the program or project which will be financed with Federal money and (2) the dollar amount of Federal funds for the program or project.” [It is understood by DHMH that such language may be couched, so as not to mention specific amounts, in situations where such amounts would compromise competitiveness (e.g., for bids).]
7. Grantees receiving Maternal and Child Health (CFDA 93.994) monies must report annually the following information: number of clients served, number of clinic visits, age of clients seen, type of health insurance clients have, if applicable, and a narrative report on the services provided and clients served.
8. Grants funded with federal funds under the Maternal and Child Health services Block Grant (CFDA 93.994) are expressly prohibited from the use of such funds for the following:
- A. Inpatient hospital services other than those provided to or for , children with special health care needs, high risk pregnant women, infants and other such inpatient services as the federal agency approves.
  - B. Cash payments to intended recipients of health services..
  - C. Purchase or improvement of land; the purchase, construction, permanent improvement (other than minor remodeling) of any building or other facility; purchase of major medical equipment.
  - D. Satisfying any requirement for expenditure of non-federal funds as a condition to receive federal funds.
  - E. Research or training to any entity other than a public or non-profit entity.
  - F. Payment for any item or service (non emergency) furnished:
    - a) by an individual or entity during which they are under this Title, or Title XVIII, XIX, or XX, pursuant to section 1128, 12128A, 1156, or 1842 (j)(2), or
    - b) at the medical direction or on the prescription of a physician during such exclusion and when the person furnishing such item or service had reason to know of the exclusion (i.e., sufficient time).

9. Those providers or practitioners under Title V of the Social Security Act (e.g. Maternal and Child Health Services Block Grant, any SPRANS grant, such as Sickle Cell, etc.) who have been sanctioned under the Medicare and Medicaid Patient and Protection Act of 1987 (P.L. 100-93) will not receive grant payments. Title V also administers some funds for Human Immunodeficiency Virus and EMS grants – the grantor should inform you if your program falls under Title V.



## ATTACHMENT W - LOCAL AGENCY BUDGET PACKAGE INSTRUCTIONS

### **WIC PROGRAM**

#### **SFY 2013 Budget Instructions**

The local agency budget package is an EXCEL-based workbook that includes links to subsidiary schedules. Some of the schedules include cells that are shaded to identify how or by whom that particular field is filled. A four-color coding scheme is used in the budget package. The keys to the four-color coding scheme follow.

**Yellow** – Any yellow shaded cell is for the sole use of LA staff.

**Blue** - Do not enter data in any blue shaded cells. Any blue shaded cell is a cell that is either linked to another sheet in the budget package or contains a formula.

**Tan** – Any tan shaded cell is for the sole use of the DHMH funding administration (State WIC Program) staff. The tan shaded cells are found only on the 4542A – Program Budget Page (Approval) and the Grant Status Sheet (4542M).

**Green** – Any green shaded cell is for the sole use of the Division of General Accounting (DGA). The green cells are found only on the 4542A -Program Budget Page (Approval) and the Grant Status Sheet (4542M).

**Gold** – Any gold shaded cell on the 4542-A – Program Budget Page or on the Quarterly Expenditure Report tabs requires the completion of a supplemental schedule.

The cells containing negative numbers, e.g. collections or reductions, must be formatted to contain a parenthesis, for example, (\$1,500). Please make sure that neither brackets nor a minus sign appear for negative numbers. The automatic formatting on the page should show as \$1,500. The formatting has been set by the Department and should not require correcting. The parenthesis format is the required structure for file uploading to FMIS. If something other than a parenthesis for negative numbers is used, the budget file will error out of the upload process.

Local agencies are encouraged to consolidate their use of budget line items. The Program Budget Page provides a list of commonly used line items. **Please do not insert or delete any rows or use “Cut and Paste”. To do so, will fracture the links to the budget upload sheet. DO NOT write over existing line items – any new line items must be added at the bottom of the page.**

### **4542 A Program Budget Page**

**Funding Administration** - Family Health Administration

**Local Agency** - Enter name of submitting local agency

**Address** – Enter mailing address where information should be sent regarding program and fiscal matters  
**City, State, Zip Code** – Enter relative to above address

**Telephone #** – Enter number, including area code, where calls should be directed regarding program and fiscal matters

**Project Title** – WIC Program

**Grant Number** - Enter the DHMH award number from the UFD, e.g., WI300WIC Note: private providers should use their contract number

**Contact Person** – Enter the name of the individual(s) who should be contacted at the above telephone number regarding fiscal matters related to this grant award

**Federal I.D. #** - Enter the Federal I.D. # for the local agency

**Index (local health departments only)** – Enter the county index number for posting to FMIS (see attached list)

**Award Period** - Enter the period of award, e.g., July 1, 2012 - June 30, 2013

**Fiscal Year** - Enter applicable state fiscal year, e.g., 2013

**County PCA (local health departments only)** – enter the County PCA code that will be charged for this grant, e.g., F705N; **only one PCA per budget.**

File Name (local health departments only) – **Enter the file name exactly in the format as indicated below. Each LHD budget file must have a unique file name in the following format.** There are no exceptions to this file name format. **Please complete the file name exactly as indicated, including the dashes. Please note that all data must be in caps, there can be NO blank spaces, apostrophes, or periods in the file naming convention**

File Name Format: FY-County-PCA-Grant #-Suffix for Modification, Supplement, Reduction – no blank spaces in name, e.g.

13-HOWARD-F705N-WI300WIC (this would be an original budget)  
13-HOWARD-F705N-WI300WIC-MOD1  
13-HOWARD-F705N-WI300WIC-RED1  
13-HOWARD-F705N-WI300WIC-SUP1

**File name (private local agencies)** – Enter the file name in the format listed below with no blank spaces:

- For original budget submission: Fiscal Year-Agency name (13-HOPKINS)
- For a modification: Fiscal Year-Agency name-Mod#1 (13-HOPKINS-MOD1)
- For a supplement or reduction: Fiscal Year-Agency Name-Supp#1 or Red#1 (13-HOPKINS-SUP2)

**Date Submitted** - Enter the date the budget package is submitted to the funding administration

**Original Budget, Modification #, Supplement #, Reduction #** - If this is the original budget submission for the award, enter “yes.” If this is a modification, supplement or reduction, enter “no” and “#1”, “#2”, etc. on the appropriate line.

SUMMARY TOTAL COLUMNS (ABOVE LINE ITEM DETAIL)

CURRENT BUDGET COLUMN  
DHMH FUNDS MOD/SUPP(RED) COLUMN  
LOCAL FUNDS MOD/SUPP(RED) COLUMN  
OTHER FUNDS MOD/SUPP(RED) COLUMN  
TOTAL MOD/SUPP(RED) COLUMN

The budget package accumulates the total of the line item budget detail. These totals provide the break out of funding for DHMH, local and/or other funds for the original budget and any subsequent budget actions.

Please note that the calculated fields (blue shaded cells) are formatted in the spreadsheet to show cents. This was done to provide an indication that the line item detail contains cells with cents in error. If the totals in this section contain cents, reexamine the line item detail and correct the line item budget. Do not modify the formulas in this section to adjust for the cents. The budget should be prepared in whole dollar increments, and therefore should not contain cents either by direct input or formula.

Descriptive lines used in this section follow.

- Direct Costs Net of Collections – **Do not enter data in this row.** This row contains a formula that calculates the total direct costs net of collections.
- Indirect Costs –The allowed amount of indirect cost is calculated automatically on the Indirect Cost Calculation Form (4542-K) once the budgeted salary amounts are entered on the Program Budget Page (4542-A). The allowed indirect calculated on the 4542-K will be entered automatically on the 4542-A. If you are budgeting less than the allowed amount of indirect as calculated on the 4542-K, you will have to adjust the budgeted indirect as indicated on the 4542-K.
- Total Costs Net of Collections - **Do not enter data in this row.** This row contains a formula that calculates all line item postings, including collection line items, entered in the line item budget detail in each respective column.
- DHMH Funding – **Do not enter data in this row.** This row contains a formula that calculates the DHMH Funding Amount by subtracting the Total All Other Funding and Total Local Funding from the Total Costs Net of Collections.
- All Other Funding – **Do not enter data in this row.** This row contains a formula that calculates all line item postings, including collection line items, entered in the line item budget detail in the All Other Funding column.
- Local Funding - **Do not enter data in this row.** This row contains a formula that calculates all line item postings, including collection line items, entered in the line item budget detail in the Local Funding column.
- Total Mod/Supp/(Red) Column – **Do not enter data in this row.** This column contains a formula that simply calculates the total of the postings in the previous three columns in this section.

**DHMH Program Approval** – (tan shaded cell) Do not enter any information in this section. This section is reserved for the use of the DHMH funding **administration**

**Division of General Accounting Approval** – (green shaded cell) Do not enter any information in this section. This section is reserved for the use of the DGA staff

## ***4542 A PROGRAM BUDGET PAGE LINE ITEM BUDGET DETAIL SECTION***

**Line Item Number / Description (columns 1 & 2)** - For local health departments, enter the line item numbers from the state Chart of Accounts. Commonly used line items are provided on this form. **You may not write over existing line items. New line items must be added to a blank cell at the bottom of the line item listing. It is very important to note that rows not be inserted or deleted nor should the “Cut and Paste” edit feature be used. To do so, will fracture the links to the budget upload sheet and the file will not upload to FMIS.**

**Line Item 0802** - This line item is to be used to report expenditures for WIC temps assigned to work in your local agency. The cost of WIC temps cannot be included in the calculation of Indirect Cost.

**DHMH Funding Request (column 3)** - Enter by line item the amounts to be supported with DHMH funds.

**Local Funding (column 4)** - Enter by line item the amounts to be supported with local funds.

**All Other Funding (column 5)** – Enter by line item the amounts to be supported with funds other than DHMH Funding and/or Local Funding.

**Total Other Funding (column 6)** – This column contains a formula that adds Local Funding (column 4) and All Other Funding (column 5).

**Total Program Budget (column 7)** - This column contains a formula that adds the DHMH Funding (column 3), Total Other Funding (column 6), and Total of Modification/Supplements or Reductions (column 11).

**DHMH Budget, Local Budget, Other Budget – Modification, Supplement, or Reduction (columns 8, 9, 10 and 11)** - Enter by line item and funding source (i.e., DHMH, local or other) any changes due to Budget Modifications Supplements, or Reductions. The Total Program Budget (column 7) will be recalculated to include these changes. **Please remember that the new Total Program Budget (column 7) will become the new base budget for any subsequent budget submissions.**

### **Supplementary Subsidiary Budget Forms (4542 B thru 440 A)**

The following forms have been modified to include links that pull information from the 4542A form. The cells shaded in blue are either linked to another sheet or contain a formula. Please do not enter data in these fields or cells. The fields will be populated automatically upon completion of the 4542A form. **Please do not enter data into a blue shaded cell.**

## **4542 B - Budget Modification, Supplement or Reduction**

### **Line Item Changes and Justification**

This form is required ONLY for Budget Modifications, Supplements or Reductions. This form should contain the changes (+ or -) from the most recently approved budget by line item. Specify the type of funding that is affected by the change (i.e., DHMH Funding, Local Funding or All Other Funding) and justification for the change. Please note that justification is required for changes to fee collections.

This schedule contains links to the Program Budget Page (4542A) that pull the line item number and the amount from Column 11. A formula is supplied that accumulates the total of the changes on this page, cross checks the total to the budget page and provides a check total (which should equal zero). These cells are shaded in blue and should not be modified by the LHD.

### **4542 C Estimated Performance Measures**

The performance measures for the WIC Program are:

“To serve at least 97% of the assigned caseload.” Enter your assigned caseload.

The performance measures for the BFPC Program are:

“To increase breastfeeding rates for infants by 1% over the prior year”

### **4542 D Schedule of Salary Costs**

**For local health departments:** Enter the required information for all Merit System employees.

**For private agencies:** Enter the required information for all employees.

**Classification** – First, enter one of the following: Coor (local agency coordinator); CPA; CPPA; BFPC; Cler (clerical); Other (specify). Next, enter the job title or classification of the employee (i.e. Nurse, Nutritionist, etc.). The entry should appear as: CPA – Nurse III or Cler – Office Assistant II.

**Name** – Enter the name of the employee.

**Grade / Step** – To be completed for State employees only. Enter the grade and step of the employee in the following formats. If an employee is a grade 12 and has a July increment from Step 5 to Step 6, the entry would appear as: 12 / 6. If an employee is a grade 10 and has a January increment from Step 3 to Step 4, the entry would appear as: 10 / 3-4.

**Daily Time Studies Required?** – Enter Yes or No based on whether or not the employee is required to document their time on a daily basis for the entire year (see Policy 6.01 Time Study Requirements for Staff Paid with WIC Funds).

**Is employee also budgeted in the BFPC Program?** – Enter Yes or No based on whether or not part of the employee’s salary is also budgeted in the BFPC Program.

**WIC FTE** – enter the WIC full time equivalent. If an employee is full time and works only in the WIC program, the WIC FTE would be 1.0. If an employee works 80% and only in the WIC Program, the WIC FTE would be .8. If an employee is 80% and works 2 days per week in the WIC Program, the WIC FTE would be .4.

**WIC Funded Salary** – Enter the amount of the employee’s salary that will be supported with WIC Funds.

**Total Salary** – Enter the employee’s Total Annual Salary. If an employee works in WIC and another program, this would be their total salary from all programs.

Formulas have been added to the bottom of this page to compare the totals on Salary page to the totals for these line items on the Program Budget Page (4542 A). If there is any difference shown, you must make the appropriate corrections so that the totals on both forms agree.

### **4542 E – Schedule of Special Payments and Contractual Payroll**

This schedule has been separated into two sections – Special Payments Payroll and Other Contractual Payroll.

**For local health departments:** Enter the required information for all Special Payments Payroll or Contractual employees.

**For private agencies:** Do not complete this page.

**Classification** – First, enter one of the following: Coor (local agency coordinator); CPA; CPPA; BFPC; Cler (clerical); Other (specify). Next, enter the job title or classification of the employee (i.e. Nurse, Nutritionist, etc.). The entry should appear as: CPA – Nurse III or Cler – Office Assistant II.

**Name** – Enter the name of the employee.

**Grade / Step** – To be completed for State employees only. Enter the grade and step of the employee in the following formats. If an employee is a grade 12 and has a July increment from Step 5 to Step 6, the entry would appear as: 12 / 6. If an employee is a grade 10 and has a January increment from Step 3 to Step 4, the entry would appear as: 10 / 3-4.

**Daily Time Studies Required?** – Enter Yes or No based on whether or not the employee is required to document their time on a daily basis for the entire year (see Policy 6.01 Time Study Requirements for Staff Paid with WIC Funds).

**Is Employee Also Budgeted in BFPC Program** - Enter Yes or No based on whether or not part of the employee’s salary is also budgeted in the BFPC Program.

**WIC FTE** – enter the WIC full time equivalent. If an employee is full time and works only in the WIC program, the WIC FTE would be 1.0. If an employee works 80% and only in the WIC Program, the WIC FTE would be .8. If an employee is 80% and works 2 days per week in the WIC Program, the WIC FTE would be .4.

**WIC Funded Salary** – Enter the amount of the employee’s salary that will be supported with WIC Funds. Fringe costs for Special Payments Payroll employees should be reflected in Item 0291 FICA, and 0292 Unemployment Insurance.

**Other Contractual Services (Item 0299) Worksheet Only:**

If certain WIC employees are budgeted in Item 0299 Other Contractual Services, the amount of the employee's salary that will be supported with WIC Funds should be shown in the WIC funded salary column. The fringe costs (FICA and unemployment) for these employees should be shown in the Fringe Costs column. The total of both salary and fringe costs for these employees are to be budgeted in Item 0299. Indirect cost may only be claimed on the salary portion of this line item. Indicate whether or not part of the employee's salary is also budgeted in the BFPC Program.

Formulas have been added to the bottom of this page to compare the totals on the Special Payments Payroll or Contractual Payroll page to the totals for these line items on the Program Budget Page (4542 A). If there is any difference shown, you must make the appropriate corrections so that the totals on both forms agree.

**4542 F - Schedule of Consultant Costs**

All fields should be completed on the schedule. Please list the individual consultant's name. If payment will be made to a business, list the firm's name also. List the consultant's professional area; the hourly rate and the budgeted total annual hours. The "Total Cost" is calculated by multiplying the "Hourly Rate" times the "Total Hours".

The two totals (formula provided) for this schedule must equal the total of Object .02 line items, excluding line items 0280, 0289, 0291 and 0292 amounts on the Program Budget page (DHMH 4542A). The "DHMH Funded Cost" amount on this schedule must equal the sum of the amount in the DHMH Funding Request Column (Col. 3) plus, if applicable, any amount in the DHMH Budget Modification, Supplement or Reduction Column (Col. 8) for Object .02 exclusive of the aforementioned line items. The "Total Cost" amount on this schedule must equal the Object .02 total exclusive of the aforementioned line items in the Total Program Budget Column (col. 7) on the DHMH 4542A.

**Note:** The consultant-contractor relationship is defined by the individual, personal delivery of service where the consultant has a high degree of autonomy over his/her use of time, selection of process, and utilization of resources. The IRS guidelines can be used to assist in defining the employer/employee relationship and to distinguish between a consultant and an employee.

**4542 G - Schedule of Equipment Costs****Special Instructions for WIC Program ONLY:**

This schedule must list **all** equipment items to be purchased that will be assigned an inventory number - **regardless of cost**.

The equipment page has been divided into two sections. Equipment to be purchased using your normal WIC funding should be shown in Section I. Equipment to be purchased using special funding awarded by the State WIC Office should be shown in Section II. Any unspent special funding must be returned to the State WIC Office and cannot be used for any other purpose.

The description column should list the item to be purchased and its proposed use. Indicate if the item is additional equipment or to replace equipment purchased previously with DHMH funds. If more space is needed, continue the narrative within the column. Use additional pages as necessary.

The total for this schedule must agree with the total of all equipment line items on the Program Budget page (DHMH 4542A). The “WIC Funded Cost” amount on this schedule must equal the sum of the amount in the DHMH Funding Request Column (Col. 3) plus, if applicable, any amount in the DHMH Budget Modification, Supplement or Reduction Column (Col. 8) for all equipment line items. The “Total Cost” amount on this schedule must equal the amount for all equipment line items in the Total Program Budget Column (col. 7) on the DHMH 4542A.

Formulas have been added at the bottom of the Equipment Page (4542-G) to compare the total budgeted equipment to the amounts budgeted for all equipment line items on the Program Budget Page (4542 A). If there is any difference shown, you must make the appropriate corrections so that the totals on both forms agree.

As equipment is purchased during the year, you must enter the actual cost of each equipment item purchased in the appropriate column on the Equipment Page (4542-G)

Formulas have also been added to the Equipment Page (4542-G) to compare the actual expenditures to the actual expenditures for all equipment line items reported on the quarterly expenditure reports. If there is any difference shown, you must make the appropriate corrections so that the totals on both forms agree.

The following information must be entered on the Equipment Page (4542-G): inventory number, serial number, manufacturer, date received and location of item.

This information should be entered as the equipment is purchased throughout the year but must be included with the submission for the quarter ending June 30<sup>th</sup>. Entering this information on the Equipment Page (4542-G) will eliminate the requirement for the submission of the WIC Program Inventory Item (Form 6.02A) for NEW purchases. The WIC Program Inventory Form will still have to be submitted to the State WIC Office if equipment items are transferred to another location, have been disposed of, or have been sent to surplus.

### **4542 H - Purchase of Care Services (Line Item 881)**

#### **This line item should not be used by the WIC Program.**

This schedule is to be used to detail any amounts reflected on the Purchase of Care line item (0881) on the Program Budget page (4542A). This schedule and line item 0881 should only be used for health related unit price contracts and fixed price contracts with organizations. It is **not** to be used for cost reimbursement contracts. List the type of service, the contract type (fixed price or unit price), the vendor from whom the service is to be purchased, the performance measures relative to the purchased service and the DHMH funded cost and total cost for each service.

The two totals (formula provided) for this schedule must agree with the purchase of care line item (0881) amounts on the Program Budget page (DHMH 4542A). The “DHMH Funded Cost” amount on this schedule must equal the sum of the amount in the DHMH Funding Request Column (Col. 3) plus, if applicable, any amount in the DHMH Budget Modification, Supplement or Reduction Column (Col. 8) for line item 0881. The “Total Cost” amount on this schedule must equal the purchase of care (line item 0881) amount in the Total Program Budget Column (col. 7) on the DHMH 4542A.



### **4542 I – Human Service Contracts (Line Item 896)**

#### **This line item should not be used by the WIC Program.**

This schedule is to be used to detail any amounts reflected on the Human Service Contract line item (0896) on the Program Budget page (4542A). This schedule and line item 0896 is to be used **only** for health related cost reimbursement contracts with organizations. List the type of service, the vendor from whom the service is to be purchased, the performance measures relative to that purchased service and the DHMH funded cost and total cost for each service.

The two totals (formula provided) for this schedule must agree with the human service contracts line item (0896) amounts on the Program Budget page (DHMH 4542A). The “DHMH Funded Cost” amount on this schedule must equal the sum of the amount in the DHMH Funding Request Column (Col. 3) plus, if applicable, any amount in the DHMH Budget Modification, Supplement or Reduction Column (Col. 8) for line item 0896. The “Total Cost” amount on this schedule must equal the human service contracts (line item 0896) amount in the Total Program Budget Column (col. 7) on the DHMH 4542A.

Formulas have been added to the bottom of this page to compare the totals on the Equipment page to the totals for these line items on the Program Budget Page (4542 A). If there is any difference shown, you must make the appropriate corrections so that the totals on both forms agree.

### **4542 J – Detail of Special Projects (Line Item 899)**

#### **Special Instructions for WIC Program ONLY:**

This schedule is to be used to detail any amounts reflected on the Special Projects line item (0899) on the Program Budget page (4542A). Special Projects are projects for which special funding is received from the State WIC Office. These projects must be budgeted and reported separately from other WIC funding. Unspent funds from Special Projects must be returned to USDA and cannot be used to support other line items in the WIC budget. Actual costs must be entered on this schedule and must agree with the costs reported on the quarterly expenditure reports. The two totals (formula provided) for this schedule must agree with the special projects line item (0899) amounts on the Program Budget page (DHMH 4542A). The “DHMH Funded Cost” amount on this schedule must equal the sum of the amount in the DHMH Funding Request Column (Col. 3) plus, if applicable, any amount in the DHMH Budget Modification, Supplement or Reduction Column (Col. 8) for line item 0899. The “Total Cost” amount on this schedule must equal the special projects line item (0899) amount in the Total Program Budget Column (col. 7) on the DHMH 4542A.

Formulas have been added to the bottom of this page to compare the budgeted total on Special Projects page to the amount budgeted for this line item on the Program Budget Page (4542 A). If there is any difference shown, you must make the appropriate corrections so that the totals on both forms agree.

**As funds are expended for special projects during the year, the “WIC Funded Actual Cost” column must be completed.** The total of the “Actual Cost” columns must agree with the year-to-date expenditures for the Special Projects line reflected on the quarterly expenditure reports.

### **4542 K - Indirect Cost Calculation Form**

## **Special Instructions for WIC Program ONLY:**

For the WIC Program, indirect cost is limited to 25% of salary line items only (Items 0111, 0171, 0181, 0182, 0280, and the salary portion of 0299). This form includes formulas for the calculation of indirect costs once the budgeted salary line items are entered on the Program Budget (4542-A). **A formula has been entered on the Program Budget Page (4542-A) to pull the allowed indirect into the correct cells from line 45 on the Indirect Cost Calculation Form (4542-K).**

**If your agency chooses to use a percentage less than the maximum rate of 25%, please adjust the percentage as indicated on the Indirect Cost Calculation Form (4542-K).**

**If you are budgeting a flat amount for indirect cost (less than the maximum allowed), please adjust the formula as necessary on the indirect cost line on the Program Budget Page (4542-A) to pull the amount from the correct column on line 72 of the Indirect Cost Calculation Form (4542-K).** Indicate the amount of indirect actually budgeted in the “Alternate Method” space as indicated below the calculation. Include an explanation (e.g. in order to stay within the grant award, indirect was budgeted at \$xxxxxx).

Please note that expenditures for WIC Temps assigned to work in your agency are to be reported in Item 0802 and are not to be included in the calculation of Indirect Cost.

Formulas have been added to the bottom of this page to compare the budgeted total on Indirect Cost Calculation page to the amount budgeted for this line item on the Program Budget Page (4542 A). If there is any difference shown, you must make the appropriate corrections so that the totals on both forms agree.

### **4542 L - Budget Upload Sheet (DGA Use Only)**

The purpose of this sheet is to upload the budget into FMIS. **Local health department personnel should not enter any information directly onto this sheet. This sheet is for use of DPCA only.** Data will be entered automatically on this form as the Program Budget Page (4542A) is completed. Please do not attempt to enter data on to this sheet or to modify it in anyway.

### **4542 M Grat Status Sheet (For Funding Administration Use)**

The purpose of this schedule is to provide sufficient information for DGA to post grants to the UFD and to track various types of UFD actions. **This form is to be completed by the funding administration and forwarded to DGA.** The funding administration should enter information in all tan shaded fields. Some information fields (blue) on this schedule will be filled automatically from links to the Program Budget Page (4542A). Formula totals (blue) are provided in the section detailing the County PCA, Program Administration PCA , Federal Fund Tracking #, etc. The lone green shaded cell is for DGA to enter the date the Grant Status Sheet was received in DGA

### **DHMH 4293-2 (WIC Program In-Kind Contributions) - OPTIONAL**

Enter the description, the WIC category and dollar value of the In-Kind contributions.

### **Incentive – Outreach Items**

**Effective July 1, 2011 (SFY 2012), local agencies may not purchase any Incentive or Outreach items. Items will be purchased by the State WIC Office and can be ordered from the Statewide Distribution Center.**

This worksheet is to be used to report all Nutrition Education or Breastfeeding Promotion incentive items as well as all outreach items. Please review P&P 6.05 Outreach, Nutrition Education and Breastfeeding Promotion Items.

#### **NE or BF Incentive Items:**

**Description of Item** – enter a description of the item purchased

**Line item** – enter the line item number in the budget where the expenditures are reported

**NE or BF** – enter NE or BF if the item being purchased is for nutrition education or breastfeeding support.

**Cost per item** – enter the cost per item

**Quantity** – enter the quantity purchased

**Total cost** – enter the total cost (should be the cost per item multiplied by the quantity)

#### **Outreach Items:**

Enter the same data requested.

**This worksheet must be completed and submitted with the quarterly expenditure report. If no incentive or outreach items are purchased during the quarter, please enter “no purchases during quarter” on the worksheet.**

### **Time Studies**

Time studies have been incorporated into WIC’s management information system (WOW). The new procedures are:

- 1) During the time study month, WIC employees enter and certify their time on a daily basis.
- 2) After the end of the time study month, the coordinator (or their designee) reviews and approves all of the time study data.
- 3) The coordinator (or their designee) enters the FTE data for the applicable time study month into WOW

4) Once all time study/FTE information has been entered and approved, the coordinator (or their designee) prints the following reports:

"Quarterly Time Study Percentages" - all agencies

"Daily Time Study Percentages" - agencies that have employees that complete daily time studies and agencies that have employees that split their time between WIC, and/or BFPC, Non-WIC Programs under circumstances where daily time studies would be required (See P&P 6.01)

5) If information is missing or has not been approved, the "Quarterly Time Study Percentages" report will print with a watermark that says "Incomplete". If the report that you receive contains the "Incomplete" watermark, return the report to the Coordinator (or their designee) so that the issues can be resolved.

6) Once the final "Quarterly Time Study Percentages" report has been received, enter the percentages (rounded to 1 decimal) at the bottom of the applicable quarterly expenditure report in the budget file. The total of the percentages must equal 100.0%.

7) If applicable to your agency, enter the information from the "Daily Time Study Percentages" report in the "Daily WIC-BFPC-Non-WIC" worksheet in the budget file. The only change to this process is that you will now get the report of hours from WOW.

### **Daily WIC / BFPC / Non-WIC Time Study Worksheet**

This worksheet has been designed to calculate the actual salary and fringe costs for the quarter that should be charged to the WIC Program for employees who are required to keep daily time studies and for breastfeeding peer counselors whose salaries are charged to both WIC and BFPC funding.

Once all time study and FTE data has been entered into WOW, the Local Agency Coordinator (or their designee) will print the "Daily Time Study Percentages" report from the Admin module of WOW. On the Daily WIC / BDFPC / Non-WIC worksheet, enter the Total # of hours for WIC / BFPC / Non-WIC as shown on the "Daily Time Study Percentages" report.

This worksheet must be completed on a quarterly basis for all employees who are required to complete daily time studies all year long (see Policy 6.01 Time Study Requirements for Staff Paid with WIC Funds) or for breastfeeding peer counselors whose salaries are charged to both WIC and BFPC funding. The worksheet has been set up to report information for up to 6 employees. If you have more than 6 employees who are required to keep daily time studies, copy the formulas for the additional number of employees needed.

The WIC Program may only be charged for actual hours worked in the WIC Program for employees who are required to keep daily time studies and for breastfeeding peer counselors whose salaries are charged to both WIC and BFPC funding. At the end of each quarter, the actual hours worked as indicated on the "Daily Time Study Percentages" report, along with the salary and fringe costs for each employee who is required to keep daily time studies should be entered on the Daily WIC / BFPC / Non-WIC Worksheet.

**Employee Name** – enter the name of the employee

**Classification** – enter the classification of the employee

**Hours Worked** – for employees who are required to keep daily time studies, enter the WIC and Non-WIC hours worked.

For employees whose salaries are supported by both WIC and BFPC funding (and have no hours worked in another program), enter the hours worked for the time study month only. No data will be entered for the 2<sup>nd</sup> and 3<sup>rd</sup> month of the quarter.

**Salary** – enter the total salary paid for the employee for the entire quarter

**Fringe** – enter the total fringe paid for the employee for the entire quarter

The total salary and fringe that can be charged to the WIC Program and to the BFPC Program for the quarter will be calculated automatically based on the WIC hours worked.

If you are charging less salary and fringe to WIC than the allowable amount calculated, enter the actual amount of salary and fringe charged to WIC for each quarter in the section indicated.

### **Quarterly Expenditure Reports**

Once all time study and FTE data has been entered into WOW, the Local Agency Coordinator (or their designee) will print the “Quarterly Time Study Percentages” report from the Admin Module of WOW.

At the bottom of the applicable quarterly expenditure report, manually enter the percentages (rounded to one decimal) in each of the cost categories. The cells where the percentages are to be entered are highlighted in pink. The total of the percentages must equal 100.0%.

Each local agency must spend **at least 20%** of their award for Nutrition Education. In addition, each agency must spend **at least 5%** of their award for Breastfeeding Promotion and Support.

**Local Agency Name, Award Number and Budget Period** - These fields will be completed automatically from the Program Budget (4542-A).

**Federal ID Number** - Enter your 9 digit federal tax ID number.

**Address** - Enter your mailing address.

**Report Prepared by, Date Prepared, Telephone #** - Complete these fields as appropriate.

**Line Item Description, Approved Budget** - These fields will be completed automatically from the Program Budget (4542-A). There are blank lines at the bottom of the Program Budget (4542-A) that contain formulas to carry the information to the quarterly expenditure reports and WIC budget. **DO NOT INSERT NEW LINE ITEMS IN THE SHADED AREAS.** If line items need to be added during the year, they must be added on the blank lines at the bottom of the Program Budget (4542-A) and will be carried forward to the quarterly report formats. If additional line items need to be added and you are not sure how to do this, please call for assistance.

**Current Quarter** – Go to the column to the right of the Total Expenditures column. Enter your total expenditures for the current quarter (please limit your entry to 2 decimal places).

- Allowable indirect cost for each quarter will be calculated automatically at the bottom of each quarterly report once the quarterly expenditures for the salary items have been entered. The allowable indirect cost will then be entered automatically in the Current Quarter column on the indirect cost line. If you are budgeting less than the allowable amount for Indirect Cost, you will have to change the formula to charge one quarter of the budgeted Indirect Cost for each quarter.

**Clinic, Nutrition Education, Breastfeeding, Program Operations** - The expenditures for salaries, fringe, maintenance, postage, telephone, utilities, housekeeping, office supplies, insurance, rent, and indirect cost will be allocated automatically to the different WIC categories based on the percentages from the Quarterly Time Study Summary for the appropriate quarter. If there is a line item that you can provide justification for being allocated based on the time study percentages but there is no formula in that row, copy the formula from the salary line item to the appropriate line item. All Year-to-Date columns contain formulas - do not enter anything in these columns.

- **You may NOT allocate all items based on the percentages from the Quarterly Time Study Summary.** Items such as out-of-state travel, training, and subscriptions must be allocated to the appropriate category. For example, the registration fee for a nutrition conference must be allocated 100% to Nutrition Education; a subscription to a breastfeeding magazine must be allocated 100% to Breastfeeding, etc. Costs that are not allocated based on the percentages from the Agency Quarterly Time Study Summary will have to have the amounts allocated to the applicable WIC category. ALWAYS use the @round feature when entering formulas.

**Current Quarter Unallocated** - This column will indicate any line item that has not been allocated to the WIC categories. These amounts must be allocated to the appropriate WIC categories. This can be done by manually entering the amounts applicable in the Current Quarter column under each WIC category. After each line item has been allocated, the total in the Current Quarter Unallocated column should be zero. There may be a rounding difference in cents. An adjustment must be made to the individual line item in a WIC category to correct the rounding difference. The correction must be made in the Current Quarter columns in the appropriate category, **not in the Year to Date column**. If possible, make the correction in the Program Operations Category.

**Balance Remaining** - This column shows the budget balance remaining in each line item and can be very useful to local agencies.

### **DHMH 440 - Annual Report – Year End Reconciliation (Optional)**

Local health departments may use FMIS in lieu of the DHMH 440 Report.

If a local agency is filing a DHMH 440 Report, the budget and expenditures will be completed automatically. Please complete appropriate information (yellow shading) as needed. If you do not use the DHMH 440 from this budget package, please remember that the total expenditures on the DHMH 440 and the June quarterly expenditure report must agree.

### **DHMH 440A - Performance Measures Report**

All local agencies must complete this form. Some information (blue shading) is pulled from other budget forms. The “Final FY Count” (yellow shading) is to be completed with the average participation for the state fiscal year.

### **DUE DATES**

#### **Quarterly Reports and Budget Modifications:**

Quarterly expenditure reports are due **thirty days** after the end of the quarter. Budget modifications are due April 30<sup>th</sup> of each year and should be included with the third quarter report submission. This requirement will be strictly enforced. Reports are due on the following dates:

<b><u>Quarter Ending</u></b>	<b><u>Due Date</u></b>
September 30th	October 31st
December 31st	January 31st
March 31st	April 30 <sup>th</sup> (including budget modifications)
June 30th	August 15 <sup>th</sup>

Files should use the same file name as the budget submission with an extension showing the quarter number. For example, Howard County’s 2<sup>nd</sup> quarter report would be named: 13-HOWARD-F705N-WI300WIC-2.xlw.

Private local agencies should use the format “fiscal year-local agency name-quarter number “– for example: “13-HOPKINS-2.xlw”.

The completed quarterly reports must be submitted electronically by the due dates to:

**[FHAUGA-WIC@DHMH.STATE.MD.US](mailto:FHAUGA-WIC@DHMH.STATE.MD.US)**

**NOTE: Please do not e-mail files to individual WIC employees. Send files only to the e-mail address above.**

#### **Annual Budget Submission:**

The SFY 2013 annual WIC budget package is due by **May 31, 2012**. You will receive by e-mail a blank file to be used for your budget submission. DO NOT use the prior year’s budget package. The completed budget package must be submitted electronically (using the file name as indicated in these instructions) to:

**[FHAUGA-WIC@DHMH.STATE.MD.US](mailto:FHAUGA-WIC@DHMH.STATE.MD.US)**

**NOTE: Please do not e-mail files to individual WIC employees. Send files only to the e-mail address above.**